

MINUTES
BOARD OF SUPERVISORS
COUNTY OF YORK

Regular Meeting
December 20, 2005

6:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 6:00 p.m., Tuesday, December 20, 2005, in the Board Room, York Hall, by Chairman James S. Burgett.

Attendance. The following members of the Board of Supervisors were present: Walter C. Zarembo, Sheila S. Noll, Kenneth L. Bowman, James S. Burgett, and Thomas G. Shepperd, Jr.

Also in attendance were James O. McReynolds, County Administrator; J. Mark Carter, Assistant County Administrator; and James E. Barnett, County Attorney.

Invocation. Jenny Rosso, York County Youth Commission, gave the Invocation.

Pledge of Allegiance to the Flag of the United States of America. Chairman Burgett led the Pledge of Allegiance.

HIGHWAY MATTERS

Mr. Jim Brewer, Residency Administrator, Virginia Department of Transportation, stated the Route 782 project is coming to an end, but it is behind schedule. Route 1050 is moving forward. He noted that the Big Bethel Road project is alive and well, stating that on November 17 the MPO put an additional \$400,000 on the project so that it will go back on the schedule with a March advertisement. Mr. Brewer noted that potholes should soon be coming with the colder weather.

Discussion followed regarding the Big Bethel Road project.

Mr. Zarembo asked about the timeline for the widening of Richmond Road.

Mr. Brewer stated it should be done sometime in June of 2006.

Mr. Zarembo asked Mr. Brewer to provide more specifics on the project at the next Board meeting he attends.

Mr. Burgett noted that the intersection of Dare Road and Lakeside Drive is a problem.

Mr. Brewer stated that several speed studies had been done, but not specifically for a traffic signal. He indicated he would prepare a letter in the morning asking the District Office if the area warrants a signal.

PRESENTATIONS

EMPLOYEE RECOGNITION PROGRAM

Chairman Burgett congratulated the following employees for their years of service with the County, and he presented them their service pins and certificates of appreciation:

Jeffrey A. Dunn	Environmental & Development Services	25 years
Scott W. Laney	General Services	25 years
Michael A. Coy	Environmental & Development Services	20 years

YORK COUNTY YOUTH COMMISSION

Mr. Brownlee Bakkum, Chairman of the York County Youth Commission, provided the Board with the Commission's second quarterly report. He noted the past few months had been very busy with the Commission's biggest project being the 6th annual county-wide youth event sponsored with Parks and Recreation and the School Division. He stated the program was a great success, and the speaker Dr. Brown was very dynamic. Mr. Bakkum thanked all the parents for attending, and he thanked Mr. Bowman also for attending. He then noted that the York County Youth Commission triennial opinion survey was administered at each high school during youth week. Ms. Paulette Parker in the Department of Community Services helped administer the survey with students from the College of William and Mary. On December 2 the Commission helped with the Christmas Tree Lighting Ceremony, and Commissioners cleaned up Goodwin Neck Road as part of the Adopt-a-Highway program. They also participated in the Salvation Army's Angel Tree program. On December 8 the Commission had as a special guest speaker Terry Hall with the Department of Fire and Life Safety. Mr. Bakkum then noted upcoming projects, starting with the annual Wintergreen ski trip on January 27, and in February they will be co-sponsoring the annual Senior Center Valentine Bingo Party with Parks and Recreation. He also noted that the due date for nominations for the annual Youth Awards is in February, and the Commission looks forward to a group of exceptional nominees this year. He noted that March 22 is the deadline for applications for next year's Youth Commission.

CITIZENS COMMENT PERIOD

Mr. Joseph Taylor, 109 Marlbank Drive, spoke with respect to the Board's appropriation to the Regional Library operated by Williamsburg. He noted that historically the York County Library has offered services to 60,000 registered patrons, and one-third of them are from outside the County, and roughly 10,600 of them are people now living in the areas of York County west of the Weapons Station who could use the regional library in Williamsburg. He asked if the library has made a convincing case to support the \$330,000 the County sends to service that relatively small number. Mr. Taylor noted that the Virginia Gazette has indicated the library plans to build another facility that will not have anything to do with York County, and he stated he feels they should not look to York County for anything for that facility, and that should be made clear. Mr. Taylor also suggested that the Board should insist on proportional representation on the Regional Library board, as well as move in the direction of establishing a branch of the York County Library for York County residents west of Queens Lake using the funds now sent to the Regional Library.

Mr. Adam Beach, 510 Holmes Boulevard, York County business owner, spoke of how York County business has not grown as fast as its homes, and its residents have to leave York County and go to neighboring jurisdictions for everything it needs. He noted that the Route 17 Revitalization program gave him an opportunity to renovate an existing business in York County, and the program has made a major impact. He suggested the Board needs to continue the program and provide funding in next year's budget. Mr. Beach noted, however, that implementation of the program lacked proper marketing, no landscaping and facade plans were provided as promised, and obstacles were created rather than assistance provided.

Mr. George Downer, 110 Lambs Creek Drive, representing the Model Railroad Club on Dare Road, stated that signs he had put up advertising the Club's open house event were taken down by the zoning office, and he asked what he needed to do in order to get permission to put the signs back up.

COUNTY ATTORNEY REPORTS AND REQUESTS

Mr. Barnett apprised the Board that the donation by Amoco of 25 acres of land off of Seaford Road near Seaford Elementary School has finally been completed. The other closing regarding the land swap will be deferred to January. He noted this action will provide the County with the right-of-way for the Burts Road/Grafton Drive connection.

COUNTY ADMINISTRATOR REPORTS AND REQUESTS

Mr. McReynolds reminded the Board members of the January 3 organizational meeting. He also noted there were three additional meetings scheduled in January—January 10 joint meeting with the School Board, the January 17 Regular Meeting, and a January 24 work session on the Capital Improvements Program and other budget issues. Mr. McReynolds wished the Board and audience Happy Holidays.

MATTERS PRESENTED BY THE BOARD

Mrs. Noll stated it had been a tumultuous year for everyone, but overall in York County the people have been very fortunate. She spoke of the successful opening of Riverwalk Landing, and she encouraged the residents to visit and show visitors what an asset it is. She stated it was nice to hear a member of the Youth Commission give the Invocation. Mrs. Noll indicated it was the holiday season, and she encouraged everyone not to forget the people who are missing members of their families this year who are away protecting the country's freedom.

Mr. Zaremba indicated he had the privilege of sitting in for Chairman Burgett when the Historical Committee had its annual installation of officers, and it made him think about the hundreds of volunteers the County is blessed with. The Historical Committee is responsible for the Memorial and Veterans Day celebrations, the York County War Memorial, the Zweibrücken Exchange Program, and the lighting of the annual Christmas Tree. He noted he was very impressed with what they do as well as that done by other volunteer organizations in York County. He then spoke of outgoing Chairman Burgett, stating the Board members have been through a very exciting year with lots of accomplishments. The Board members have been very pleased with Mr. Burgett's leadership during the last 12 months, and he has done a wonderful job representing the Board and the citizens. Mr. Zaremba then expressed holiday wishes to everyone.

Mr. Bowman echoed everything his colleagues had said about the holiday season. He stated the year went very fast, and the Board is into planning for another busy year. He spoke about the guest speaker for the Youth Commission's Youth Week, stating Dr. Brown provided everyone with a wonderful session. A number of parents attended, but the students carried the message back to the other parents. He thanked Rick Smethurst for his support of the Youth Commission. Mr. Bowman also wished his wife Brenda a happy birthday.

Mr. Shepperd stated everyone looks at what the Chairman does, and he does it so smoothly that he makes it look easy. People do not realize the amount of preparation that goes into being Chairman and the time it takes to be at so many events. Mr. Shepperd stated that this past year has been a defining time for the County because of the accomplishments under Mr. Burgett's leadership. York County is a beautiful place that our employees enjoy working in and our citizens enjoy living here. He praised the staff and the County volunteers for their work in promoting the quality of life in York County. Mr. Shepperd then stated he had spent the morning with the York County Chamber of Commerce which continues to grow. A proposal on the agenda tonight talks about a business promotion that helps lower taxes and increase the County's quality of life. The activities of the community on the Route 17 corridor are coming together. Mr. Shepperd asked everyone to be careful and patient when driving, and he wished everyone a happy holiday season.

Chairman Burgett thanked his colleagues for their very kind words. He stated the Chairman does not work in a vacuum, and the success the Board has enjoyed this year was done as a body with ideas coming from all the Board members. He stated he is very proud of the accomplishments and looks forward to doing more next year. Mr. Burgett thanked everyone for their support this year, and he wished everyone happy holidays.

Meeting Recessed. At 6:51 p.m., Chairman Burgett declared a short recess.

Meeting Reconvened. At 7:02 p.m. the meeting was reconvened in open session by order of the Chair.

PUBLIC HEARINGS

SECONDARY ROAD IMPROVEMENT PLAN

Mr. Carter noted that this was a joint public hearing with the Virginia Department of Transportation (VDOT) as required by state law. He made a presentation on information shared with the Board of Supervisors earlier this month in a work session regarding the proposed projects for the Six-Year Plan. He indicated there were no new projects included in the plan.

Discussion followed on funding for the program and the realignment project for Water Country Parkway. It was noted that the program has been reduced by about \$1 million since 2002.

Chairman Burgett then called to order a public hearing on proposed Resolution R05-207 that was duly advertised as required by law and is entitled:

A RESOLUTION TO APPROVE A PROJECT PRIORITY LISTING
FOR SECONDARY ROAD CONSTRUCTION FOR THE SIX-YEAR
PERIOD FY2006-07 THROUGH FY2011-12 AND TO APPROVE A
CONSTRUCTION BUDGET FOR FY 2006-2007

There being no one present who wished to speak concerning the proposed Secondary Road Improvement Program, Chairman Burgett closed the public hearing.

Mrs. Noll moved the adoption of proposed Resolution R05-207 that reads:

A RESOLUTION TO APPROVE A PROJECT PRIORITY LISTING
FOR SECONDARY ROAD CONSTRUCTION FOR THE SIX-YEAR
PERIOD FY2006-07 THROUGH FY2011-12 AND TO APPROVE A
CONSTRUCTION BUDGET FOR FY 2006-2007

WHEREAS, the York County Board of Supervisors has been requested to give consideration to a proposed program of secondary road improvements contained in the six-year plan; and

WHEREAS, the Williamsburg Residency Administrator of the Virginia Department of Transportation has provided a recommended program which the Board of Supervisors has carefully considered; and

WHEREAS, the York County Planning Commission has specifically reviewed the proposed projects and determined them to be in conformance with the York County Comprehensive Plan; and

WHEREAS, the Board and the Virginia Department of Transportation have jointly conducted a duly advertised public hearing on the proposal in accordance with applicable procedures; and

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 20th day of December, 2005, that the Board does hereby adopt the following project priorities for the Six-Year Secondary Road Plan during the six-year period of FY2006-2007 through FY2011-2012:

1. **Cary's Chapel Road** – construct intersection improvement at Victory Boulevard (Route 171).
2. **Big Bethel Road** – intersection improvements at Route 134 and Route 171.

3. **Fort Eustis Boulevard Extension** – construct a new road on a new location between the current terminus at Patriot Square Shopping Center and Old York-Hampton Highway (Route 634).
4. **Grafton Drive** – reconstruct and re-align Grafton Drive/Dare Road/Route 17 intersection to accommodate connection of Grafton Drive and Burts Road.
5. **Lakeside Drive** – intersection and turning lane improvements between Route 17 and Dare Road.
6. **Penniman Road** – reconstruct and repave from Alexander Lee Parkway to Fillmore Drive.
7. **Burts Road** – connect with Grafton Drive on a new corridor alignment parallel to Route 17.
8. **Yorkville Road** – improve 90-degree curve.
9. **Cook Road** – provide 20% local match for CMAQ-funded project to construct bicycle lanes between the northern intersection of Surrender Road and Ballard Street.
10. **Water Country Parkway** – relocate/re-align to eliminate s-curve and reconstruct to improve access to economic priority area.

BE IT FURTHER RESOLVED that the Board of Supervisors hereby approves the Secondary System Construction Budget for FY 2006-2007 as presented by the Williamsburg Residency Administrator of the Virginia Department of Transportation.

BE IT STILL FURTHER RESOLVED that the Residency Administrator be, and he is hereby, commended for his assistance and support in addressing the transportation needs of the County.

BE IT STILL FURTHER RESOLVED that the County Administrator be, and he is hereby, authorized to sign and execute all such documents as are necessary to evidence the Board's approval of the Construction Budget and the Six-Year Plan.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Bowman, Shepperd, Burgett
Nay: (0)

CONVEYANCE OF DRAINAGE EASEMENTS

Mr. Barnett made a presentation on proposed Resolution R05-196 to declare the Board's intent to enter and take easements necessary in connection with the Moore's Creek drainage project.

A brief discussion took place concerning the property that had an issue with missing heirs.

Chairman Burgett then called to order a public hearing on proposed Resolution R05-196 that was duly advertised as required by law and is entitled:

A RESOLUTION DECLARING THE NECESSITY TO ENTER UPON
AND TAKE CERTAIN PERMANENT DRAINAGE EASEMENTS AND
TEMPORARY CONSTRUCTION EASEMENTS IN CONNECTION
WITH THE MOORE'S CREEK DRAINAGE PROJECT

There being no one present who wished to speak concerning the subject resolution, Chairman Burgett closed the public hearing.

Mr. Shepperd stated that anytime the Board has a "take" of property there can be some emotional issues, but this case is not like that. He stated it is a rather peculiar piece of property that cannot be used for anything else. It will be maintained in a natural state. Because of the drainage issues for several homes in District 5, this action will result in a protection of the environment and will be a benefit to the owners living near this property. He then moved the adoption of proposed Resolution R05-196 that reads:

A RESOLUTION DECLARING THE NECESSITY TO ENTER UPON
AND TAKE CERTAIN PERMANENT DRAINAGE EASEMENTS AND
TEMPORARY CONSTRUCTION EASEMENTS IN CONNECTION
WITH THE MOORE'S CREEK DRAINAGE PROJECT

WHEREAS, it is necessary to obtain certain easements in connection with the Moore's Creek drainage project; and

WHEREAS, for various reasons, the County is not able to obtain from the owners of such property clear title to the interests in real estate necessary, or no agreement has been reached as to the consideration to be paid for the said interests; and

WHEREAS, plats of the interests in real property to be acquired have been prepared by Precision Measurements, Inc. and appraisals of such interests have been prepared; and

WHEREAS, § 15.2-1905 (C), Code of Virginia, authorizes the Board to adopt a resolution following a public hearing on the matter declaring its intent to enter and take specified properties, rights-of-way or easements for such purposes as constructing, installing, expanding, maintaining, or repairing drainage facilities.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 20th day of December, 2005, that the Board finds that it is necessary for the protection and preservation of the public health, safety and welfare, and for the timely completion of the Moore's Creek drainage project, for the County, its officers, employees and agents to enter upon and take the interests in real property described below prior to the initiation of condemnation proceedings.

BE IT FURTHER RESOLVED that the interests to be taken, and the compensation and damages, if any, offered by the County for each are the following, which interests are more particularly described on the plats attached to the memorandum of the County Attorney dated November 14, 2005, and incorporated herein by this reference:

Tax Map Parcel 30F-1-4A

A permanent drainage easement and a temporary construction easement as shown on a plat entitled "Plat of Easement Acquisitions From: Mollie Janet Tucker, To: County of York, Virginia, Project: Moore's Creek Drainage Improvements Phase 1" dated August 23, 2005, prepared by Precision Measurements, Inc. and designated as a "Permanent Drainage Easement Hereby Conveyed to York County, 1,049 sq. ft. or 0.024 acres" and a "Temporary Construction Easement Hereby Conveyed to York County, 1,530 sq. ft. or 0.035 acres." Value offered to owner: \$495.00.

Tax Map Parcel 30-213

Permanent drainage easements and temporary construction easements as shown on a plat entitled "Plat of Easement Acquisitions From: Wilton S. Wilson, To: County of York, Virginia, Project: Moore's Creek Drainage Improvements Phase 1" dated August 23, 2005, prepared by Precision Measurements, Inc. and designated as "Permanent Drainage Easement Hereby Conveyed to York County, 821 sq. ft. or 0.019 acres," "Permanent Drainage Easement Hereby Conveyed to York County, 5,412 sq. ft. or 0.124 acres," "Temporary Construction Easement Hereby Conveyed to York County, 367 sq. ft. or 0.008 acres," and a "Temporary Construction Easement Hereby conveyed to York County, 2,260 sq. ft. or 0.052 acres." Value offered to owner: \$2,534.00.

Tax Map Parcel 30-213B

A permanent drainage easement and temporary construction easements as shown on a plat entitled "Plat of Easement Acquisitions From: W.S. Wilson, To: County of York, Virginia, Project: Moore's Creek Drainage Improvements Phase 1" dated August 23, 2005, prepared by Precision Measurements, Inc. and designated as "Permanent Drainage Easement Hereby Conveyed to York County, 5,849 sq. ft. or 0.134 acres," "Temporary Construction Easement Hereby Conveyed to York County, 3,539 sq. ft. or 0.081 acres," and a "Temporary Construction Easement Hereby Conveyed to York County, 3,964 sq. ft. or 0.091 acres." Value offered to owner: \$6,872.00.

Tax Map Parcel 30-213A

A permanent drainage easement and a temporary construction easement as shown on a plat entitled "Plat of Easement Acquisitions From: Jackie E. Davis, To: County of York, Virginia, Project: Moore's Creek Drainage Improvements Phase 1" dated August 23, 2005, prepared by Precision Measurements, Inc. and designated as "Permanent Drainage Easement Hereby Conveyed to York County, 5,668 sq. ft. or 0.130 acres," and a "Temporary Construction Easement Hereby Conveyed to York County, 3,152 sq. ft. or 0.072 acres." Value offered to owner: \$10,797.00.

Tax Map Parcel 30F-1-1

A temporary construction easement as shown on a plat entitled "Plat of Easement Acquisition From: Rachel Griffin, et als, To: County of York, Virginia, Project: Moore's Creek Drainage Improvements Phase 1" dated August 23, 2005, prepared by Precision Measurements, Inc. and designated as a "Temporary Construction Easement Hereby Conveyed to York County, 10,005 sq. ft. or 0.230 acres." Value offered to owner: \$1,331.00.

Tax Map Parcel 37-138

Permanent drainage easements and a temporary construction easement as shown on a plat entitled "Plat of Easement Acquisitions From: George L. Smith, Jr., To: County of York, Virginia, Project: Moore's Creek Drainage Improvements Phase 1" dated August 23, 2005, prepared by Precision Measurements, Inc. and designated as "Permanent Drainage Easement Hereby Conveyed to York County, 497 sq. ft. or 0.011 acres," "Permanent Drainage Easement Hereby Conveyed to York County, 9,336 sq. ft. or 0.214 acres," "Permanent Drainage Easement Hereby Conveyed to York County, 2,863 sq. ft. or 0.066 acres," "Permanent Drainage Easement Hereby Conveyed to York County, 1,950 sq. ft. or 0.045 acres," and a "Temporary Construction Easement Hereby Conveyed to York County, 1,171 sq. ft. or 0.027 acres." Value offered to owner: \$7,542.00.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 20th day of December, 2005, that the Chairman of the Board of Supervisors, the County Treasurer and the County Attorney are hereby authorized and directed, for and on behalf of the County, to execute a certificate of deposit to be recorded in the Office of the Clerk of the Circuit Court for York County, certifying the amount set forth above as the fair value, and damages if any, of the interests to be taken, will be paid the owners in accordance with the provisions of State law and upon order of the Court.

BE IT STILL FURTHER RESOLVED that the County Attorney be, and he is hereby, authorized, if necessary and appropriate, at any time following the date of this Resolution, to institute condemnation proceedings in the name of the Board of Supervisors to acquire title to the interests in the property described above, including, if necessary, any other easements or restrictions that may affect the easements sought to be acquired, and to do all things necessary as a prerequisite thereto.

On roll call the vote was:

Yea: (5) Noll, Bowman, Shepperd, Zaremba, Burgett

Nay: (0)

APPLICATION NO. UP-686-05, PREMIER PROPERTIES USA, INC.

Mr. Carter gave a presentation on Application No. UP-686-05, Premier Properties USA, Inc., requesting a use permit authorizing the establishment of a regional shopping center to be located at 165 and 175 Water County Parkway. He noted there was one modification to condition No. 2 that would reference a renderings and photo package dated December 20. Mr. Carter stated that reference would guide the Design Review Committee for a review of detailed architectural plans that will come forward on the project. The Planning Commission recommended approval of the application, and staff recommends approval through the adoption of proposed Resolution R05-201(R).

Mr. Bowman stated an area that concerned him was the traffic, and he stated he assumed that VDOT has been brought on board.

Mr. Carter stated it had, that there had been extensive meetings with VDOT and the Federal Highways Administration. Traffic studies have been done and are making their way through the VDOT review process. He stated the applicant is well aware of what will be required.

Chairman Burgett spoke about the Design Review Committee, stating he was interested in the guidelines. He noted there will be a committee of seven people looking at these designs, but they need to be able to make decisions fast because time is money.

Mr. Carter indicated the guidelines were a part of the agenda package under a document entitled "Design Review Committee and Guidelines" that gives timeframes for decision making, and the guidelines talk to things that need to be looked at. He noted that the process, committee structure, and guidelines have been coordinated with the applicant.

Mr. David Zoba, president and COO of Premier Properties, spoke concerning the proposed Marquis project. The staff and Planning Commission spent a lot of time on this, and the applicant appreciates the efforts of a lot of people. He stated the proposal is a large project, and it is seen as a substantial economic engine for York County. He noted his company does large retail projects that are unique and particularly appropriate for today's shopper and communities. In addition to being an economic engine to the County, Mr. Zoba stated it will raise the bar for retail businesses on the Peninsula as well. He then displayed renderings of projects that have been done in other areas of the country and have been very successful. He stated the area needs to attract a powerful retail venue that puts all the retailers in one place as this is what works best today because customers want to have all their shopping needs in one place. Mr. Zoba stated his company likes to create a sense of place using unified, upgraded architectural materials and themes. He stated it would be a meeting place, with entertainment. He stated they work to create a walking environment with lots of water features, landscaping, outdoor seating areas, and restaurants.

Mr. Ryan Cronk, Premier Properties, stated they welcomed input to the guidelines. He indicated they have worked with the York County staff to come up with what everyone feels will work, and they feel they will design something the Board will like. He indicated the intent was to show compliance with the design guidelines, and JPRA Associates is the architect on the project. He stated they are No. 1 in the retail market place, and they have created a design that Premier is very happy with. The architectural concept includes a lot of pedestrian ways and lots of green space. Mr. Cronk thanked the entire York County staff, stating they have been more thorough than any staff they have ever worked with.

Mr. Zaremba indicated he and others looked first-hand at a development by this company because it was difficult to look at renderings and get a real feel for the capability of the developer. He stated they got a great feel for the capability of this developer by touring these other properties. He stated this is not the Renaissance Center in Detroit or Indianapolis or Cincinnati--this is York County, part of the historical triangle, and the Board members will let Premier know when they see if the proposal comports with what York County is all about. Mr. Zaremba asked about the lifestyle or main street concept.

Mr. Zoba stated he considers Short Pump in Henrico County to be a regional mall where the roof was taken off. He indicated he would say a main street center is more ambling and not a grid system like Short Pump. The Premier proposal has a combination of anchor stores (Target in this case) with smaller retailers. He stated that walkability and attention to detail is key and is what their CEO is fanatical about. He agreed that the Cincinnati and Indianapolis projects are not what they were looking for here, but he stated he hoped the Board would agree there was a lot of attention to detail in those projects.

Discussion followed on the location of Phases 1 and 2 of the project.

Mr. Zaremba stated he felt Mr. Burgett had hit the main issue regarding the Design Review Committee. He asked how the other three people would be chosen.

Mr. Carter stated they would be mutually agreed on by the Board and Premier, with both parties proposing candidates and coming to agreement on three of them.

Further discussion ensued concerning the makeup of the Design Review Committee. Discussion also took place concerning the proposal for a new employee access to Water Country and security issues for the proposed project.

Mr. Burgett asked about the retailers that would be coming to this project that are not already in this area.

Mr. Zoba indicated that some have not committed, but they anticipate a mixture of Target and two other department stores; one everyday-priced and one fashion department store; a modern state-of-the-art cinema with stadium seating; three or four national restaurants; and a full list of fashion apparel stores. Mr. Zoba stated that one of the challenges of their business is to integrate the bigger stores with the smaller ones and restaurants and incorporating the walking atmosphere.

Chairman Burgett then called to order a public hearing on Application No. UP-686-05 that was duly advertised as required by law. Proposed Resolution R05-201(R) is entitled:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE THE ESTABLISHMENT OF A RETAIL CENTER OF MORE THAN 80,000 SQUARE FEET OF FLOOR AREA ON PROPERTY LOCATED AT 165 AND 175 WATER COUNTRY PARKWAY

There being no one present who wished to speak concerning the subject application, Chairman Burgett closed the public hearing.

Mrs. Noll stated she was glad that Mr. Zoba mentioned the feature of a parking deck. She noted the parking lots in the County are just paved, and this will provide something similar to what there is on the waterfront and better accessibility to the people. She stated that she and Mr. Zaremba looked at some of these other projects, and it allowed them to have a much better idea of what it can be like here in York County. Mrs. Noll stated she was very hopeful about this project, but the Board does not want a pseudo Williamsburg, and it should have the feel and materials to stand the test of time.

Mr. Shepperd stated when looking in terms of the Board's goals, it is a project that fits in the long-range vision of the County, and it works in nicely. He stated it tags on to the Board's concerns for "our place." It is not Newport News, Williamsburg, Hampton, or James City County, but it is York County, and that is how the Board wants it to look and feel. By having the focus of the community in the design, it will provide the best results. Mr. Shepperd stated he feels the project fits very nicely into what the Board has tried to do for the York County community.

Mr. Bowman stated he saw the Millennium in Orlando this past week which is a Premier development. He stated he has also visited Short Pump which he used as a benchmark for this project. It is family friendly, but does not have the street scene that Premier is proposing, but

does have the courtyard environment. He stated he feels this project will be great asset to York County, although he has concerns about the traffic issue. He stated the infrastructure part is important, and all players need to be brought on board and make sure everyone knows the impact this project will have. He spoke of current problems with I-64 and a major project that will have to be worked out. He stated it is a slow moving process, and this will be the stumbling block.

Mr. Zarembo stated that having been on site for the other projects, the renderings do not show what the concept is really about. The closest thing to it is Newtown but on a much larger scale. He stated he feels this particular initiative has got to be done right, and it has the potential to be the flagship project of the Peninsula. Mr. Zarembo noted the Board will probably take an interest in this project unlike it has ever taken in a project before because it wants to provide the citizens with a quality project.

Chairman Burgett stated the Board has heard all the concerns. He noted he hopes the committee will be objective. He stated the project will be the first of its kind for this area and is a great concept. Once the land use is approved, there will be other issues that the Board will have to deal with before the project comes to fruition. Chairman Burgett stated he was impressed with what Premier wants to do.

Mrs. Noll then moved the adoption of proposed Resolution R05-201(R) that reads:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE THE ESTABLISHMENT OF A RETAIL CENTER OF MORE THAN 80,000 SQUARE FEET OF FLOOR AREA ON PROPERTY LOCATED AT 165 AND 175 WATER COUNTRY PARKWAY

WHEREAS, Premier Properties USA, Inc., has submitted Application No. UP-686-05, which requests a special use permit, pursuant to Section 24.1-466(g) of the York County Zoning Ordinance, to authorize a retail center of more than 80,000 square feet of gross floor area on property located at 165 Water Country Parkway (Route 640) and a portion of 175 Water Country Parkway, and further identified as Assessor's Parcel Nos.11-91 and a portion of 11-4-3; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission recommends approval of this application; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application; and

WHEREAS, the Board has carefully considered the public comments and Planning Commission recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 20th day of December, 2005, that Application No. UP-686-05 be, and it is hereby, approved to authorize a retail center of more than 80,000 square feet of gross floor area on property located at 165 Water Country Parkway (Route 640) and a portion of 175 Water Country Parkway, and further identified as Assessor's Parcel Nos.11-91 and a portion of 11-4-3, subject to the following conditions:

1. This use permit shall authorize a retail center of more than 80,000 square feet of gross floor area located at 165 Water Country Parkway (Route 640) and a portion of 175 Water Country Parkway and further identified as Assessor's Parcel Nos.11-91 and a portion of 11-4-3. This use permit shall be applicable only to that area identified as "Phase I" on Sheet C2.0 of the plans referenced in Condition #2 below.
2. A site plan prepared in accordance with the provisions of Article V of the York County Zoning Ordinance shall be submitted to and approved by the York County Department of Environmental and Development Services, Division of Development and Compliance,

prior to the commencement of any construction activities on the subject parcel. Except as modified herein, said site plan shall be in substantial conformance with the plans titled "The Marquis, York County, Virginia," S.U.P. Re-submittal, Sheets C.01, C1.1, C1.2, C1.3, C3.1 and C3.2, prepared by Landform, dated September 30, 2005 and received by the Planning Division October 3, 2005, and Sheets 2.0, 2.1 and 2.2, received on October 10, 2005, and "Typical Main Street Cross Section, the Marquis," prepared by JPRA Architects, dated September 30, 2005, and received by the Planning Division on October 3, 2005. Building elevations shall be in general conformance with the renderings and photographs titled "Design Review Committee References", dated December 20, 2005, and made a part of this approval by reference. All building construction shall be subject to the design review and approval process set forth herein. For the purposes of this Special Use Permit authorization, the maximum total amount of floor area in the subject phase of the project shall be 800,000 square feet.

3. Prior to site plan approval, the applicant shall secure any permits or approvals required under Chapter 23.2, Chesapeake Bay Preservation Areas, of the County Code, and any permits or approvals required from the Army Corps of Engineers for development impacting wetlands.
4. All signage on the property shall be in conformance with Article VII of the Zoning Ordinance. Freestanding identification signage for the overall project shall be limited to a single monument sign for each individual public street frontage bordering the property (Interstate 64, including the exit ramp; Route 199; Water Country Parkway, extended) and shall be in substantial conformance with the monument sign elevation titled "Freestanding/Monument, The Marquis," Sheet 3, prepared by JPRA Architects, dated September 30, 2005, and received by the Planning Division on October 3, 2005. Freestanding identification signs for any separate outparcels shall be permitted in accordance with the terms of Article VII. Internal freestanding directional signage shall conform to Zoning Ordinance Section 24.1-707(r).
5. Pedestrian access and parking lot landscape dividers shall be located as depicted on the plan sheet labeled "Staff amendments," Sheet C2.2 and dated October 10, 2005, a copy of which is included in this resolution by reference. The ultimate site design shall also include any additional pedestrian ways and/or landscape dividers as may be deemed required in the course of final site plan review. The pedestrian access way labeled "major pedestrian access way" shall be designed as a minimum 15-foot wide landscape island containing a minimum 5-foot wide sidewalk adjacent to a minimum 10-foot wide landscaped area. All other delineated pedestrian access ways shall be designed as minimum 10-foot wide islands containing minimum 4-foot wide sidewalks adjacent to minimum 6-foot wide landscaped areas.
6. Prior to application for site plan approval, a design review committee, formed and governed by the document entitled "Design Review Committee Structure" dated November 2, 2005, and made a part of this resolution by reference, shall be established for the review and approval of proposed building and signage plans. Site and building plans shall conform to the Design Guidelines section of this document and such other standards as are established herein.
7. Access to the proposed development shall be as generally depicted on the conceptual plans referenced in Condition #2 above, and including any modifications as required by the Virginia Department of Transportation (VDOT). Such access arrangements from Route 199 and the proposed connections with the Grove Interchange ramp system of Interstate 64 shall be subject to review and approval by the Virginia Department of Transportation and by the Federal Highway Administration (FHWA) in accordance with such procedures and requirements as those agencies determine appropriate. The adequacy of the proposed traffic network shall be documented and analyzed in a Traffic Impact Study prepared in accordance with all applicable standards for such studies and approved by VDOT and FHWA where applicable as required by statute. The Traffic Impact Study shall document the improvements necessary to serve the needs of the proposed development and to yield a minimum Level of Service of C. Where the existing conditions provide a current Level of Service of less than C, the improvements shall be

designed to at least maintain the current volume to capacity ratio without further degradation through the design year, plus two years. The improvements necessary to accommodate the traffic impacts of the proposed development shall be the responsibility of the applicant. In the event transportation system improvements cannot be designed to accommodate the proposed amount of retail development and achieve the LOS standard, then the size (floor area) of the proposed commercial space shall be reduced accordingly from that depicted on the Concept Plan.

The alignment and design of the proposed main access road, which is depicted on the Concept Plan as a "New State Road," shall be approved by the Virginia Department of Transportation and, in the event of a connection to the Interstate 64 ramp system, the Federal Highway Administration. The road shall be designed as a limited access facility with no breaks on its north side other than a possible service/employee access connection to Water Country USA, and a possible pull-off/parking area to provide access to any interpretive area established in conjunction with the historic/archaeological resources to be preserved, both subject to VDOT's review and approval. Access breaks (entrances into the proposed development) on the south side shall be as generally depicted on the referenced concept plans, shall not exceed a total of five (5) for this phase of the project, and shall be subject to review and approval by VDOT as to such design, geometrics and traffic control/signalization standards as it deems appropriate.

In the event the connection to the Interstate 64 ramp system is not approved by VDOT and/or the Federal Highway Administration, or is still under review at the time the applicant wishes to commence detailed design and engineering work for the Phase I development, the applicant shall be responsible for demonstrating the adequacy of the Route 199 access point to serve as the sole access to the proposed Phase I development. Such documentation shall be provided through the submission and approval, by VDOT, of a traffic impact analysis (which may be a sub-section of the overall project Traffic Impact Study referenced above). In addition, the applicant shall be responsible for securing a commitment from VDOT that the Phase I main access road will be eligible, upon completion, for acceptance by the Virginia Department of Transportation. In the event the Phase I main access road will not be eligible for acceptance by VDOT, it shall be considered a private road/commercial access and all future maintenance responsibility shall rest with the applicant/developer.

The referenced Traffic Impact Studies shall accompany the first site plan submission for the proposed development. Site Plan approval shall be contingent upon approval of the Traffic Impact Study by VDOT and, as necessary, the Federal Highway Administration. No Land Disturbing Activity Permits shall be issued for the proposed development unless the Traffic Impact Study and roadway design has been approved. In the event the authorized project is to be constructed in phases and will involve multiple site plan submissions, the initially submitted traffic study may include recommendations for a phased approach to constructing the transportation infrastructure.

8. Except as noted herein, preservation of historic resources on the property shall be fulfilled in accordance with the applicant's historical resources summary received by the Planning Division on October 3, 2005, which is included in this resolution by reference.

Prior to any clearing or grading activities in the area of historical resources site Nos. 394, 396, or 1026 as identified in the report "Phase II Archaeological Significance Evaluation of Sites 44YO0394, 44YO0395, 44YO0396, and 44YO1026 at the Whittaker's Mill Tract in York County, Virginia," prepared by James River Institute for Archaeology, Inc., dated August 2005 and received by the Planning Division on September 1, 2005, and as noted as "area to undergo Phase III investigation" on Sheet C1.2 referenced in condition # 2 above, a Phase III archaeology study shall be conducted in accordance with Virginia Department of Historical Resources (VDHR) guidelines. This shall include full recovery, documentation and archiving of all found historical artifacts on the site. Artifacts shall be archived at an antiquities repository facility constructed in accordance with applicable VDHR curation guidelines (36CFR, part 79), and shall be available to the public for educational and research purposes. In co-

ordination with the County and VDHR, the applicant shall initiate application to the VDHR for nomination of preserved eligible sites to the National Register of Historic Places.

There shall be no disturbance of the gun emplacement/redoubt located within site No. 394 as identified in the above-referenced Phase II archaeological report, and a 50-foot undisturbed buffer shall be maintained surrounding the feature. Said buffer shall be delineated on approved site and grading plans, and shall be clearly demarcated on-site prior to clearing or grading activities in its vicinity. The Zoning Administrator may approve a decrease in the buffer provided engineered site plans and further field testing adequately demonstrate that the feature will be completely protected from grading, soil erosion, or other land disturbing activities. The Zoning Administrator shall consult with VDHR as to the adequacy of the plans and field testing procedures. In no case shall the buffer be decreased to less than 20 feet.

Prior to any land disturbing activities on the site, an easement shall be established for the perpetual preservation of historical sites over the area so referenced on plan Sheet C1.2. The easement area shall also include the undisturbed buffer associated with the gun emplacement/redoubt area referenced above. Said easement shall be granted to the County or other public or non-profit organization dedicated to the discipline of historic preservation and associated public education, and shall contain provisions for the maintenance and protection of historic sites and interpretive facilities as referenced herein.

No later than at time of completion of the proposed state road within the Phase I portion of the subject site, the applicant shall be responsible for the construction of a way-side vehicular pull-off area in the area of site Nos. 394/395, as identified in the above-referenced Phase II archaeological report. Such pull-off shall be subject to the approval of VDOT and shall include a parking area, pedestrian path, and interpretive signage for the purpose of displaying interpretive/educational information including, but not limited to, photographs and text describing the artifacts and the associated history of the site. The applicant shall also be responsible for development and installation of relevant interpretive/educational signage to be placed on or near the buildings to be built over site No. 396. The County, in coordination and cooperation with VDOT and VDHR shall approve the proposed number, size, location, design, and materials of the signs, parking area, and pedestrian path.

9. Free standing and building lighting shall be full cut-off fixtures that are shielded and directed downward and level to the ground to prevent off-site illumination. The maximum height for on-site light fixture poles shall be as follows:

Pedestrian Walks and Plazas:	18 feet
Internal Streets and Drives:	25 feet
Parking Areas:	30 feet

Freestanding signage shall be internally lit, except where exterior lighting is directed downward and fully shielded. Illumination levels shall not exceed 0.5-foot candle at any exterior property line. Neon lighting exposed or contained within non-opaque fixtures shall not be permitted for signage or for building or other structure accents. All lighting schemes and lighting fixtures shall be consistent with the lighting recommended by the Illumination Engineering Society of North America (IESNA). Acceptable light sources shall include incandescent and metal halide lamps, and should produce a color temperature close to daylight. Other sources may be approved by the Design Review Committee; however, mercury vapor sources are not permitted.

10. A 45-foot wide undisturbed landscape buffer shall be maintained abutting the western border of the property adjacent to the Route 199 and I-64 rights-of-way, including the interstate exit ramp.
11. Outdoor storage of retail goods or other materials shall not be permitted.

12. Rooftop HVAC, electrical and similar utilities shall be screened from view of any street right-of-way, circulation drive, parking area or pedestrian way.
13. Calculation of minimum required parking spaces shall be exclusive of spaces utilized for cart storage uses. Parking areas that are located along public right-of-way front-ages shall be appropriately screened/buffered from view using fencing, walls (maximum 42 inches in height), or hedges.
14. In accordance with the provisions of Section 24.1-115(d) of the Zoning Ordinance, significant modifications to this approval as determined by the Zoning Administrator shall require that a new use permit application be submitted for review. Modifications can be administratively approved if the Zoning Administrator determines the modification to be minor.
15. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded prior to application for site plan approval at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

On roll call the vote was:

Yea: (5) Bowman, Shepperd, Zaremba, Noll, Burgett
Nay: (0)

APPLICATION NO. ZT-99-05, YORK COUNTY BOARD OF SUPERVISORS

Mr. Carter gave a presentation on Application No. ZT-99-05 to amend the York County Zoning Ordinance to ensure consistency with other sections of the York County Code, to correct certain references, and conform provisions to the Code of Virginia, and to consider revised regulations pertaining to senior housing, commercial reception halls, signage for medical centers, and administrative modifications of certain zoning standards. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Ordinance No 05-34.

Mrs. Noll addressed the senior housing provisions, stating that in the second option it states that at least 80 percent of the project must be occupied by at least one person who qualifies as a senior. She asked about the other 20 percent, and did it mean that people who are 19 could buy or rent the space.

Mr. Carter indicated it would allow for individuals under the senior age to buy or rent the space.

Mrs. Noll stated she had a problem with it in that she could see college students using it when it was supposed to be a senior housing facility.

Mr. Zaremba asked if it would be contrary to the Constitution if the County required that the other 20 percent was restricted to surviving spouses. He asked how the County would enforce the regulations in these housing areas.

Mr. Carter stated the responsibility for enforcement in a rental unit would be the management. In the case of a privately owned unit, it would be the responsibility of the homeowners association.

Mr. Barnett stated he would want to do legal research before he could answer that question. He stated all statutes deal with age limits, and to limit by marital status makes him nervous. He explained the exceptions to age discrimination laws.

Discussion followed on the status of the YMCA, Sentara, and Byrdsr by the Bay projects in terms of being in compliance with York County codes and how they would be affected by the new language contained in the proposed ordinance.

Chairman Burgett again addressed senior housing, stating that when the Board created the 62 and over limit, it was something that did not exist in the County. He stated there is still a shortage of housing for seniors, and if the age is changed to 55 or 60 and 80 percent, there could be 20 year olds living there as long as they do not have any children, which defeats the Board's senior housing efforts. Mr. Burgett stated if the Board had wanted 80 percent, then it would have done it that way to begin with. People with spouses less than 62 might want to consider the age limitation before they purchase senior housing in York County. He indicated he would like to retain this exclusivity for much needed senior housing.

Mrs. Noll stated she agreed with Mr. Burgett. She asked could it be adjusted differently if there is a homeowners' association if the Board holds to one rule.

Mr. Barnett stated the Board's rule would hold.

Chairman Burgett and Mr. Zaremba stated they both would like to see the ordinance say all occupants would be age 62 or older.

Chairman Burgett then called to order a public hearing on Application No. ZT-99-05 that was duly advertised as required by law. Proposed Ordinance No. 05-34 is entitled:

AN ORDINANCE TO APPROVE APPLICATION NO. ZT-99-05 TO AMEND CHAPTER 24.1, ZONING, YORK COUNTY CODE, TO ENSURE CONSISTENCY WITH OTHER SECTIONS OF THE YORK COUNTY CODE, TO CORRECT CERTAIN REFERENCES AND CONFORM PROVISIONS TO THE CODE OF VIRGINIA, AND TO CONSIDER REVISED REGULATIONS PERTAINING TO COMMERCIAL RECEPTION HALLS, SIGNAGE FOR MEDICAL CENTERS, AND ADMINISTRATIVE MODIFICATIONS OF CERTAIN ZONING STANDARDS

There being no one present who wished to speak concerning the subject application, Chairman Burgett closed the public hearing.

Further discussion took place concerning the age limitation for the ordinance.

Mrs. Noll suggested that the senior housing portions of the ordinance be tabled and the rest of the ordinance be adopted.

Mr. McReynolds stated the ordinance could be amended to remove the senior housing portions and those portions could be brought back to be acted on at a later time.

Chairman Burgett noted he had overlooked an individual who was signed up to speak concerning this application, and he reopened the public hearing at this time.

Mr. Vernon Geddy, representing Sentara Williamsburg Community Hospital, spoke in support of a larger sign for the use of regional medical centers. He noted that when someone was in distress and seeking a hospital, they should be able to see the signs.

There being no one else present who wished to speak concerning the subject application, Chairman Burgett closed the public hearing.

Mrs. Noll moved the adoption of proposed Ordinance No. 05-34(R) that reads:

AN ORDINANCE TO APPROVE APPLICATION NO. ZT-99-05 TO AMEND CHAPTER 24.1, ZONING, YORK COUNTY CODE, TO ENSURE CONSISTENCY WITH OTHER SECTIONS OF THE YORK COUNTY CODE, TO CORRECT CERTAIN REFERENCES AND

CONFORM PROVISIONS TO THE CODE OF VIRGINIA, AND TO
CONSIDER REVISED REGULATIONS PERTAINING TO COM-
MERCIAL RECEPTION HALLS, SIGNAGE FOR MEDICAL CEN-
TERS, AND ADMINISTRATIVE MODIFICATIONS OF CERTAIN
ZONING STANDARDS

WHEREAS, Chapter 24.1, Zoning, of the York County Code was adopted on June 28, 1995, and it has come to the attention of the Board of Supervisors that certain sections and provisions are in need of clarification and adjustment; and

WHEREAS, the York County Board of Supervisors has sponsored Application No. ZT-99-05 to allow consideration of various amendments intended to correct these deficiencies; and

WHEREAS, said application has been referred to the York County Planning Commission for review and consideration in accordance with applicable procedures for zoning ordinance text amendments; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing and conducted subsequent deliberations and discussions on the proposed amendments and has recommended approval; and

WHEREAS, the Board has conducted a duly advertised public hearing and has carefully considered the Planning Commission recommendation and public input concerning this application.

WHEREAS, in the interest of good zoning and land use practice, the Board has determined that it would be appropriate to approve the proposed amendments;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 20th day of December, 2005, that it does hereby approve Application No. ZT-99-05 to amend Chapter 24.1, Zoning, of the York County Code to read as follows:

Sec. 24.1-104. Definitions.

Best management practice (BMP). A practice, or combination of practices, that is determined by a state or the Hampton Roads Planning District Commission to be the most effective, and practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals

Development. The division of land into two or more parcels, or the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, paving, grading, filling or land disturbance, or any use or extension of the use of land.

Environmentally sensitive areas. Areas with one (1) or more of the following characteristics:

- slopes in excess of twenty percent (20%);
- 100-year floodplains;
- tidal or nontidal wetlands;
- land formerly used for landfill operations or hazardous industrial or commercial use; or
- Chesapeake Bay Preservation Areas

Impervious surface. A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include but are not limited to: roofs, buildings, decks, streets, parking areas, and any concrete, asphalt or compacted aggregate surface.

Regional Medical Center. A licensed and Commonwealth of Virginia accredited health care institution, whether public or private, with an organized medical and professional staff and with inpatient beds available around-the-clock whose primary function is to provide inpatient medical, nursing, emergency care and other health-related services to patients for both surgical and non-surgical conditions and that usually provides some outpatient services. In terms of the emergency care, such centers serve and accept transport of patients from the emergency services departments of three or more jurisdictions/municipalities, including the host jurisdiction.

Septic system. An underground system with a septic tank and one or more drainlines, depending on volume and soil conditions, which is used for the decomposition of domestic wastes. Such systems may also be referred to as soil absorption systems.

(Removed “Tributary stream”)

Wetland.

- *Non-tidal.* Those wetlands, other than tidal wetlands, that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that, under normal circumstances, do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U.S. Environmental Protection Agency pursuant to Section 404 of the Federal Clean Water Act in 33 CFR 328.3b, as may be amended from time to time.
- *Tidal.* Vegetated and un-vegetated wetlands, as defined in Section 28.2-1300 of the Code of Virginia.

Sec. 24.1-105. Applicability of chapter.

Except as hereinafter provided, no land, building, structure or premises shall hereafter be used, and no building or structure, or part thereof, shall be erected, altered, located, or moved, except in conformance with the regulations established by this chapter for the district in which located. In addition to the requirements established herein, all development shall comply with all applicable requirements and permitting procedures of the various local, state, and federal review and regulatory agencies including, but not limited to, the York County Wetlands Board, Virginia Marine Resources Commission, Virginia Department of Environmental Quality, Virginia Department of Transportation, Health Department, and U.S. Army Corps of Engineers.

Sec. 24.1-114. Conditional zoning.

(b) *Proffer of conditions.*

- (1) The owner or owners of property for which an application is being made for an amendment to the zoning map may, as part of the application, voluntarily proffer, in writing, reasonable conditions which shall be in addition to the regulations of the zoning district classification sought by the application.
- (2) Conditions so proffered may be made prior to the public hearing before the commission. Alternatively, or in addition, in consideration of comments expressed during the commission deliberations on an application, the property owner(s) may, prior to the final public hearing conducted by the board, choose to proffer original conditions or revised conditions.
- (3) The board as part of an amendment to the zoning map, may accept such reasonable conditions in addition to the regulations provided by this chapter for the zoning district to which the amendment is requested provided that:
 - a. the rezoning itself gives rise to the need for the conditions;
 - b. such conditions have a reasonable relation to the rezoning; and
 - c. all such conditions are in conformity with the adopted comprehensive plan; and
 - d. if proffered conditions include the dedication of real property or the payment of cash, the proffered conditions shall provide for the disposition of such property or cash payment in the event the property or cash payment is not used for the purpose for which proffered. All cash proffers shall be accepted and held in accordance with the terms of sections 15.2-2303.2 and 2303.3 of the Code of Virginia.

Sec. 24.1-202. Lot frontage required.

- (c) Other provisions of this chapter notwithstanding, flag lots may be permitted but only in accordance with the following requirements and all applicable requirements of the subdivision ordinance. Nothing in this section shall be construed to recognize flag lots as a generally available design technique to be used as a matter of right by any person subdividing land. Flag lots are generally to be considered an unacceptable design technique except in planned developments, open space subdivisions (see section 24.1-402), or in the following specific circumstances (See Figures I-3 and II-2 in Appendix A):
 - (1) Flag lots may be utilized to prevent unnecessary or undesirable accesses to collector or arterial roads; or
 - (2) Flag lots may be utilized to recognize unique physical or environmental characteristics of a parent tract which preclude efficient and logical subdivision in accordance with normally applicable frontage requirements.
 - (3) The following limitations shall apply to flag lots:
 - a. One lot, or a maximum of five percent (5%) of the total lots in a subdivision, whichever is greater, may be flag lots. This limitation shall be cumulative for subdivisions consisting of more than one (1) section. The zoning administrator may waive this limitation upon finding that authorizing the use of additional flag lots would preserve environmentally sensitive land or have a direct positive impact on designated environmental management or Chesapeake Bay Preservation areas.

- b. Flag lots shall not be permitted whenever the effect would be to increase the number of lots with direct access to a major collector or arterial street.
- c. That portion of a flag lot comprising the "staff" shall not be counted for the purpose of determining minimum lot area compliance.
- d. The minimum width of the "staff" portion of a flag lot shall be twenty feet (20')

Sec. 24.1-203. Computation of buildable or developable area.

In accordance with the comprehensive plan, certain land areas shall not be developed at all and others may only be credited partially toward buildable or developable area. These shall be determined on a case-by-case basis utilizing the percentages shown in the table below where:

The "*Density*" column contains the percentage of the specified land type which may be included in calculations of net developable density;

The "*Lot size*" column contains the percentage of the specific land type which may be included to meet minimum lot size requirements; and

The "*Platted*" column contains the percentage of the specified land type which may be platted as part of individual lots for transfer to a party **other** than a property owners' association or similar entity such as a land conservation trust.

In all cases, the zoning administrator shall be satisfied that each and every lot platted contains a sufficient building site for the future use of the property based on its zoning classification at the time the plat is submitted.

	Land Area Type	Density	Lot Size	Platted
(a)	Existing public or private street or highway right-of-way	0%	0%	0%
(b)	Areas required for dedication to eliminate substandard rights-of-way	50%	0%	0%
(c)	Existing and proposed public or private utility easements greater than twenty feet (20') in width	0%	0%	100%
(d)	Existing and proposed public or private utility easements twenty feet (20') and less in width	100%	100%	100%
(e)	Existing and proposed easements providing public rights of access or which access community facilities	100%	50%	100%
(f)	Areas four feet (4') and less above mean sea level as determined by NGVD 1929 datum (National Geodetic Vertical Datum)	0%	0%	100%
(g)	Areas of existing ponds, lakes, or other impounded water bodies measured to the mean high water level at the natural outfall or emergency spillway	0%	0%	100% ⁽¹⁾
(h)	New stormwater management ponds or basins required to be constructed to serve a development project	100%	0%	0% ⁽²⁾
(i)	Area in excess of one-tenth acre of USEPA/Corps of Engineers jurisdictional non-tidal wetlands ⁽³⁾	50%	0%	100% ⁽¹⁾

(j) Naturally occurring (predevelopment) slopes:			
	(1) less than twenty percent (20%)	100%	100%
	(2) twenty (20%), but less than thirty percent (30%)	75%	50% ⁽⁴⁾
	(3) thirty percent (30%) or greater	50%	25% ⁽⁴⁾
⁽¹⁾ When platted, a conservation easement running to the benefit of the County or other entity deemed appropriate by the zoning administrator shall be provided. ⁽²⁾ This does not preclude onsite stormwater management entirely within the bounds of a single lot where no subdivision is proposed. ⁽³⁾ Jurisdiction is determined by the U.S. Army Corps of Engineers, not by York County. No reduction shall be required for upland areas which are required as mitigation areas under permits issued by the Corps of Engineers or Virginia Department of Environmental Quality. No reduction shall be required for jurisdictional areas within which filing is permitted by the Corps of Engineers or Department of Environmental Quality. ⁽⁴⁾ 85% on lots two (2) acres and larger			

Sec. 24.1-306. Table of land uses

<i>P=PERMITTED USE</i> <i>S=PERMITTED BY SPECIAL USE PERMIT</i> USES	RESIDENTIAL DISTRICTS						COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
	CATEGORY 11 - BUSINESS / PROFESSIONAL SERVICE												
1. Broadcasting Studio								P	P		P	P	P
2. Barber/Beauty Shop							P	P	P		P		P
3. Apparel Services (Dry Cleaning/Laundry retail) Laundromat, Tailor, Shoe Repair, Etc.)							P	P	P		P	P	P
4. Funeral Home (may include cremation services)								S	P		P		
4a. Cremation Services (human or pets)									S			S	S
5. a) Photographic Studio							S	P	P		P	P	P
b) Film Processing Lab								S	P		P	P	P
6. Household Items Repair									P		P	P	P
7. Personal Services (Fortune Teller, Tattoo, Pawn Shop, Etc.)									S				
8. a) Banks, Financial Institutions							P	P	P		P		
b) Freestanding Automatic Teller Machines							P	P	P	S	P		
9. Offices						S	P	P	P		P	P	P
10. Hotel & Motel								S	P	S	P		
11. Timeshare Resort						S			S	S	S		
12. Restaurant/Sit Down								P	P		P		
13. Restaurant/Brew-Pub									P		P		
14. Restaurant/Fast Food								S	P		S		
15. Restaurant/Drive In								S	P		S		
16. Restaurant - Carryout/Delivery only							S	P	P		S		
17. Catering Kitchen/Services							S	P	P		S		

18. Nightclub								S	S		S		
19. Commercial Reception Hall or Conference Center							S	S	P	S	P		
20. Small-Engine Repair (lawn and garden equipment, outboard motors, etc.)									P	P		P	P
21. Tool, Household Equipment, Lawn & Garden Equipment, Rental Establishment									P		P	P	P
22. Establishments Providing Printing, Photocopying, Blueprinting, Mailing, Facsimile Reception & Transmission or similar business services to the general public, and business and professional users								P	P		P	P	P
23. Professional Pharmacy							P	P	P		P		

Sec. 24.1-462. Standards for marina, dock or boating facility (commercial).

- (a) Commercial marinas, docks and boating facilities shall be designed in accordance with the "Criteria for the Siting of Marinas or Community Facilities for Boat Mooring" as prepared by the Virginia Marine Resources Commission, VR 450-01-0047.
- (b) All federal, state and local requirements for marina facilities shall be met and the necessary permits obtained prior to issuance of the zoning certificate for docks, piers or boat houses.
- (c) All requirements of chapter 23.2, Chesapeake Bay Preservation Areas, shall be addressed as part of any plan approval.

Sec. 24.1-463. Standards for marina, dock or boating facility (private or club).

- (a) Use of private marinas, docks, or boating facilities shall be limited to a specific membership and shall not be intended for the general public or commercial purposes.
- (b) Private marinas, docks and boating facilities shall be designed in accordance with the "Criteria for the Siting of Marinas or Community Facilities for Boat Mooring" as prepared by the Virginia Marine Resources Commission, VR 450-01-0047.
- (c) All federal, state and local requirements for marina facilities shall be met and the necessary permits obtained prior to the issuance of a zoning certificate for docks, piers or boat houses.
- (d) All requirements of chapter 23.2, Chesapeake Bay Preservation Areas shall be addressed as part of any plan approval.

Sec. 24.1-474. Standards for commercial reception hall or conference center.

- (a) The reception hall/conference center shall be located on the site and designed so as to be compatible in form, character, appearance and arrangement with adjacent properties. In order to prevent or minimize potential adverse impacts on such properties, including but not limited to noise, light and odor, the following site and building design standards shall be observed. For the purposes of the following performance standards, the term "adjacent" shall be deemed to include properties located across a body of water:

1. Every reasonable effort shall be made to orient the principal and service entrances to the facility away from adjacent residentially-zoned property. The minimum unobstructed distance (measured on a line-of-sight) between the principal and service entrances to the facility and any adjacent existing residential structure on residentially zoned property shall be 200 feet. However, if no other reasonable alternative exists, the principal and service entrances may be as close as 100 feet (measured on a line-of-sight) to such existing residential structure(s) on adjacent residentially-zoned property if buffered by appropriate landscaping and fencing. Appropriate landscaping shall consist of a row of leyland cypress spaced at 10 feet on centers, or an equivalent evergreen substitute as approved by the Zoning Administrator, and extending a sufficient linear distance to provide an effective screen between the two uses, and appropriate fencing shall be of a wooden board-on-board type extending the same distance as the landscaping and complying with the height limitations set out in this chapter. Buildings on the reception hall/conference center site may be credited as obstructing the line-of-sight as long as they remain in place. In the event an existing building is determined to provide the line-of-sight obstruction, the above-noted separation distances shall not apply. Should such buildings be removed in the future, reception hall/convention center operator shall be responsible for establishing a substitute buffer approved by the Zoning Administrator.
2. Entrance and exit doors shall be kept closed at all times of operation to avoid noise impacts. The loading or unloading of any delivery truck associated with the facility operation shall not be permitted between the hours of 6:00 p.m. and 7:00 a.m.
3. Parking spaces likely to be used by facility patrons and employees shall be located so as to minimize impacts on adjacent residentially zoned property. Any such parking area located within 300 feet of a residential structure shall be screened from view by buildings, fencing, landscaping, or combinations thereof. The operator of the establishment shall be responsible to the greatest extent practicable for minimizing and eliminating loitering or congregations of individuals in the parking lot associated with the facility.
4. Every reasonable effort shall be made to orient mechanical equipment such as refrigeration units, HVAC systems, venting systems, or other systems or components that might cause offensive or objectionable noise or odor so that they face away from adjacent residentially zoned property. All mechanical equipment, regardless of its location, shall be concealed from view from adjacent residentially-zoned properties by appropriate landscaping or architectural treatments and shielded to deflect noise and odor away from such properties.
5. Garbage, refuse and recycling containers shall be screened from view by a fence, wall or landscaping. Enclosures for such containers shall be located as far away as practicable from any adjacent residential structure and the facility operator shall be responsible for controlling odors through scheduling of collection, deodorizers or other means, so as not to be offensive to adjacent residential property owners. Refuse trucks shall not be permitted to service the dumpsters between the hours of 6:00 p.m. and 7:00 a.m.
6. Any proposed outdoor reception or dining areas shall be clearly depicted on the plans submitted with the application to establish the facility. Outdoor reception/dining areas shall be located and designed so as to ensure the greatest degree of compatibility with adjacent residentially zoned properties and shall be buffered from potential sound emissions to such residential properties by buildings, architectural treatments, landscaping, or combinations thereof. Such buffering and other treatments shall be designed to ensure that sounds (conversations, music) emanating from the outdoor dining area do not exceed the limits prescribed by Section 16-19 of the York County Code.

- (b) Patrons of the facility may be admitted only between the hours of 6:00 a.m. and 10:00 p.m. and serving of food and beverages shall cease, and the facility shall close, no later than 11:00 p.m., unless the Board of Supervisors authorizes a later closing time in conjunction with the use permit approval.
- (c) No outdoor paging or public address systems shall be permitted in conjunction with the restaurant. The playing of live or recorded music, whether indoors or outdoors, shall comply in all respects with the terms of Section 16-19 of the York County Code.
- (d) All outdoor lighting associated with the facility and including but not limited to, its appurtenant parking lots, walkways, and service areas shall be designed, installed and maintained to prevent unreasonable or objectionable glare onto adjacent properties, rights-of-way, and waterways. The lighting standards established by the Illuminating Engineering Society of North America (IESNA) shall be used to determine the appropriate lighting fixtures and luminaries for such uses.
- (e) The facility operator shall be responsible for ensuring that parking occurs only in designated off-street parking spaces and shall not allow facility patrons to park in access drives, service drives, fire lanes or landscaped areas. The facility operator shall be responsible for installing/erecting appropriate curbing, bollards, fencing or similar measures needed to limit parking to the approved parking spaces on the site. Off-street parking shall be provided in accordance with the ratios specified in article 6 of this chapter, provided however, that all indoor and outdoor spaces that will be used/available at the same time for events shall be included in the floor area calculations used as the basis for parking demand.
- (f) The application for approval of such a facility shall be accompanied by a traffic impact study prepared in accordance with the standards established in article II, division 5, of this chapter. Such study shall be required for all reception hall/conference center proposals in the WC/I district, regardless of their size. Approval of the reception hall/convention center facility at the size proposed shall be contingent on demonstration through the traffic analysis that the capacity of the road system serving the facility can accommodate the projected traffic and that there will be no excessive or adverse impact on residential streets nor a demonstrable safety hazard to vehicular or pedestrian traffic along the access routes. The findings and conclusions of the traffic analysis shall be subject to approval by the Virginia Department of Transportation.

Sec. 24.1-501. Applicability.

- (a) Site plans shall be required for any land use or development except:
 - (1) Single-family detached and individual duplex dwelling units and their customary accessory uses;
 - (2) Bona fide agricultural operations and the customary accessory uses and structures associated with bona fide agriculture operations.
 - (3) Filling and grading operations where no impervious structures or improvements will be installed and no clearing undertaken. In such cases, a plan demonstrating compliance with erosion and sediment control and Chesapeake Bay Preservation Areas ordinances and requirements shall be submitted for approval.
- (b) No building or land-disturbing permit shall be issued, nor shall any use of a property commence, until a site plan or erosion and sediment control plan has been approved, unless specifically authorized in accordance with the procedures established herein.

Sec. 24.1-502. Information required on site plans.

- (a) *Certification.* Site plans or any portion thereof involving engineering, architecture, landscape architecture or land surveying shall be certified by an engineer, architect, land surveyor or landscape architect licensed to practice in Virginia. No person shall prepare or certify design elements of site plans which are outside the limits of their professional expertise and license.
- (b) *Scale.* Site plans shall be prepared to an engineer's scale appropriate to the lot size and intensity of use, and acceptable to the zoning administrator. Sheet size shall be twenty-four inches by thirty-six inches (24" x 36"); however, the zoning administrator may approve different sheet sizes in advance of plan submission.
- (c) *Site plan title sheet.* The site plan title sheet shall contain the following information:
 - (1) Title Block.
 - a. Project Name.
 - b. Name, address and telephone number of the firm or individual preparing the site plan.
 - c. Scale of site plan.
 - d. Date of preparation of site plan; and dates and descriptions of all revisions.
 - (2) Location of tract by an insert map at a scale of not more than one inch equaling two thousand feet (1" = 2,000') showing landmarks sufficient to clearly identify the location of the property.
 - (3) A general information section indicating the number of sheets comprising the site plan, and an index showing the locations of the various sheets.
 - (4) Rezoning proffers, special use permit conditions, wetlands permits and waivers or variances granted shall be referenced with both application number and resolution or ordinance number noted.
 - (5) The zoning of the parcel.
 - (6) Table of statistical information, including:
 - a. Total area.
 - b. Area and percentage of total of existing buildings.
 - c. Area and percentage of total of proposed buildings.
 - d. Area and percentage of total of lot coverage (amount of impervious cover).
 - e. Surface area and percentage of total lot area of parking and loading areas.
 - f. Area of disturbance.
 - g. Area and percentage of total occupied by landscaped open space.
 - (7) A blank space four inches by six inches (4" x 6") shall be reserved for the use of the county on the lower right hand corner of the title sheet.
- (d) *General information required.*

- (1) Seal and signature, on each sheet, by the Virginia registered professional engineer, land surveyor, landscape architect or architect responsible for its preparation. One (1) copy of the plan set shall be submitted with original signature on each sheet.
 - (2) The owners, present zoning and current use of all abutting or contiguous parcels.
 - (3) The boundaries of the property by bearings and distances which shall be tied to the county geodetic control network, including both horizontal and vertical control.
 - (4) Existing topography with a maximum contour interval of two feet (2') except that where existing ground is on a slope of less than two percent (2%), either one-foot (1') contours or spot elevations shall be provided where necessary, but not more than fifty feet (50') apart. Topographic mapping shall identify all significant vegetation, natural features, rock outcroppings, existing cultural features, and shall be supplemented with full verification and location of all underground structures, utilities and public improvements located on or impacting the development of the property.
 - (5) Soil types as identified in the USDA Soil Conservation Service publication *Soil Survey of James City and York Counties and the City of Williamsburg*, or the Unified Soil Classification System, or by a professional acting within their area of competence and specifically denoting graphically any areas containing soils rated "Moderate" or "Severe" or which do not have sufficient load bearings for the type of development proposed. The presence or absence of "shrink-swell" and similar soils shall be noted on the face of the plan.
 - (6) North arrow.
 - (7) All horizontal dimensions shown on the site plan shall be in feet and decimal fractions of a foot to the closest one-hundredth of a foot (0.01').
 - (8) Geometric location data for all public rights-of-way, geographic control monuments, common areas, utility centerlines and easements, structures and lot lines.
 - (9) A development phasing plan if the proposed project is to be constructed in two or more phases.
 - (10) If the site plan is shown on more than one sheet, match lines shall clearly indicate where the several sheets join and an index shall be shown locating the sheets.
 - (11) Building restriction lines and required setbacks.
 - (12) A Natural Resources Inventory of site conditions and environmental features as specified in Chapter 23.2
- (e) *Existing features.*
- (1) The location, height, first floor elevation, floor area and use of all existing buildings and structures, and their distance from all property lines and from each other.
 - (2) All existing streets, utilities, fire hydrants, easements, and watercourses, and their type, names and widths. Recordation information shall be given for all easements and for other features as appropriate. For existing public streets, both right-of-way and pavement widths shall be noted as well as state route numbers and posted speed limits.

- (3) Existing natural land features, trees, water features and all proposed changes to these features shall be indicated on a "landscape plan" (see article II, division 5). Land features shall include soil types and limitations. Water features shall include ponds, lakes, streams, wetlands, floodplains, drainage areas and storm-water retention areas.
 - (4) The location, type and extent of the following features. In addition, the gross acreage and percentage of the total of the following physical land units shall be tabulated and computed by accurate planimetric methods at the site plan scale:
 - a. Slopes more than twenty percent (20%) but less than thirty percent (30%).
 - b. Slopes thirty percent (30%) or greater.
 - c. 100-year Floodplains.
 - d. Lands below the four-foot (4') contour.
 - e. Jurisdictional (as defined by U. S. Environmental Protection Agency and confirmed by the U. S. Army Corps of Engineers) wetlands, both tidal and nontidal.
 - f. Existing water features (bodies of water, drainage channels, perennial and intermittent streams, etc.).
 - g. Major utility easements or rights-of-way including above ground electric transmission line easements.
 - h. Site specific location of Chesapeake Bay Resource protection and resource management areas.
 - i. Natural heritage resource areas identified in the document entitled, *Natural Areas Inventory of the Lower Peninsula of Virginia* and their degree of significance as identified in the same document.
 - j. Portion or portions of the property located within the Watershed Management and Protection overlay district (WMP).
 - (5) The location, type and extent of all known or suspected cultural resources, including underground resources. If architectural or archaeological studies have been performed on the site, two (2) copies of each relevant study shall be submitted with the site plan.
- (f) *Proposed improvements.*
- (1) The location and use of all proposed buildings and structures and their distance from all property lines and from each other.
 - (2) Proposed building(s) height, first floor elevation and area.
 - (3) Proposed streets, utilities and easements, their types, names and widths.
 - (4) Written schedule or data as necessary to demonstrate that the site can accommodate the proposed use, including: area occupied by each use; number of floors, height; and floor area for office, commercial and industrial uses. A development sequencing plan shall be presented with any project which is to be constructed in two (2) or more phases.

- (5) Sufficient information to show that the physical improvements associated with the proposed development are compatible with existing or proposed development of record on adjacent properties which may include schematic plans for storm water management, utilities and transportation improvements.
- (6) Proposed finished grading by contours to be supplemented by finished spot elevations and sectional design information.
- (7) Locations, computations of percent and area of all open spaces; identification of areas for, and improvements to, all recreational facilities, including percent and area.
- (8) Location and method of garbage, refuse and recyclables collection.
- (9) Location and type of all proposed signage.
- (10) Location and design of any retaining walls.
- (g) *Landscape requirements.* A landscape plan, in accordance with article II, division 4 shall be provided.
- (h) *Erosion and sediment control.* Provisions for the adequate control of erosion, runoff and sedimentation, as required by chapter 10, *Erosion and Sediment Control*, of this Code, shall be indicated on the site plan. When necessary for clarity, this information shall be indicated on a separate sheet or sheets.
- (i) *Streets and parking.*
 - (1) Location of all off-street parking and loading spaces, handicapped parking spaces, bicycle parking, driveways, existing and proposed vehicular access for the site, entrance types, sidewalks and walkways, size and angle of parking bays and width of aisles and a specific schedule showing the number of parking spaces required by article VI and the number provided.
 - (2) Typical proposed roadway and parking area pavement cross-sections.
 - (3) Location of proposed street signs.
 - (4) Plans and profiles for all street improvements in public rights-of-way, including centerline elevations computed to the nearest one-hundredth of a foot (0.01') at fifty (50) horizontal station intervals and at other locations of geometric importance.
 - (5) Existing and proposed curb, gutter and sidewalks along all streets contiguous to the project.
 - (6) Site distances, both horizontal and vertical, at all proposed entrances.
 - (7) Entrance grades (in percent) noted.
- (j) *Drainage.*
 - (1) Plans in accordance with adopted storm water management standards for the County. Stormwater management criteria consistent with the provisions of the Virginia Stormwater Management Regulations (4 VAC 3-20), as they may be amended from time to time shall be satisfied.
 - (2) Plans of contributing drainage areas and the computed limits of the 100-year floodplain, with drainage way cross-sections and water surface elevation plotted on a profile of the pre- and post-development condition.

- (3) Plans and profiles detailing the provisions for conveying the drainage to an adequate channel, pipe or stormwater system, indicating:
 - a. The location, size, type, lining material, slope and grade of ditches;
 - b. Drainage structures;
 - c. Pipes including type or class, size, location, slope, invert elevations, length and connections;
 - d. Verification of receiving channel, pipe or stormwater system adequacy;
 - e. Best management practices (BMP) and other stormwater management facilities including maintenance requirements, slopes, depths, access, cross-sections and other pertinent details;
- (4) Calculations for both pre- and post-development drainage and storm water management specifying the source of the coefficients, time of concentration, and equations utilized and any modifications made thereto.
- (5) Floodplain studies when required by the terms of the floodplain management area (FMA) overlay district.
- (6) 100-year floodplain limits.
- (7) Drainage divides and areas for both pre- and post-development conditions.
- (8) 2-, 10-, and 100-year water surface elevations shown for stormwater management ponds.

(k) *Utilities.*

- (1) Plans in accordance with adopted water and sewerage facilities standards for the county.
- (2) Plans and profiles for all existing and proposed public utilities, including elevation computed to the nearest one-hundredth of a foot (0.01') at fifty (50) horizontal station intervals and at other locations of geometric importance.
- (3) Location of all sanitary sewer lines and water lines verifying supply and receiving line adequacy, and showing all pipe sizes, type and grades.
- (4) Location of all existing and proposed fire hydrants; and calculations verifying adequacy of fire flow when required by the director of public safety.
- (5) The design, location, height, illumination intensity in footcandles, and luminaire type of all exterior lighting fixtures. The direction of illumination and methods to eliminate glare onto the adjoining properties must also be shown. Where questions or conflicts arise, the "ANSI/IES Recommended Practice for Roadway Lighting" shall prevail.

(l) *Additional information.*

- (1) Copies of all permits and determinations obtained from federal and state regulatory agencies and that are necessary for the development to occur as shown on the site plan shall be submitted with the site plan. This shall specifically include, but not be limited to, environmental permits, wetlands determinations and sewage disposal permits.

- (2) Any other additional information deemed necessary by the zoning administrator to render a decision on the proposal shall be provided or shown on the plan as appropriate.
- (m) *Format.* Site plans shall generally follow the format depicted in Figure V-1 (See Appendix A).
- (n) *Number of copies.* Ten (10) clearly legible, blue or black line folded copies of the site plan shall be submitted to the zoning administrator with the appropriate application form and fee. No plan shall be deemed received until all relevant fees and applications are submitted.

Sec. 24.1-702 General sign regulations

- (j) Except in the case of shopping centers, regional medical centers, and corner and through lots, not more than one (1) permanent free-standing sign shall be permitted for each parcel. The minimum setback of any free-standing sign, or any portion thereof, from any property line shall be ten (10) feet.

Sec. 24.1-705.1 Special sign regulations applicable to regional medical centers.

Regional medical centers, as defined in section 24.1-104, shall be permitted to erect signage in accordance with the following provisions and all general provisions specified in section 24.1-702:

- (a) One (1) freestanding monument sign shall be permitted at the primary entrance to the medical center. Such sign shall not exceed one hundred fifty (150) square feet in area, or fifteen feet (15') in height.
- (b) Additional freestanding monument signs shall be permitted at secondary entrances to the medical center provided that no such sign shall exceed thirty-two (32) square feet in area or six (6) feet in height and provided further that the maximum cumulative sign area for all entrances to the medical center shall not exceed two hundred (200) square feet.

Sec. 24.1-707. Exempt signs.

The following signs may be erected, altered or maintained in any zoning district when in accordance with the general provisions established in section 24.1-702, provided however, that permits shall not be required unless specifically noted.

- (a) Signs erected and maintained pursuant to and in discharge of any federal, state or county governmental function, or as may be required by law, ordinance or governmental regulation including official traffic signs and signals, warning devices and other similar signs.
- (b) Memorial signs or tablets, cornerstones or names of buildings when cut into masonry or when constructed of bronze or other noncombustible material, but not to exceed six (6) square feet in area.
- (c) Non-illuminated construction signs, not exceeding thirty-two (32) square feet in area and six feet (6') in height and limited to one sign for each street frontage for each prin-

cipal use being constructed on the premises to which such sign refers. No such signs shall be permitted unless a building permit has been issued or unless a site plan for the proposed development has been submitted to the county for official review. Such signs shall be removed at the completion of construction.

ARTICLE IX. APPEALS

Sec. 24.1-900. Board of zoning appeals established.

Pursuant to the requirements of title 15.2, Code of Virginia, there is hereby established a Board of Zoning Appeals for the County of York, Virginia.

The board of zoning appeals shall consist of five (5) residents of the county, one (1) of whom may be a member of the planning commission, each to be appointed by the judge of the county circuit court. The terms of office, organization, and procedures of this board shall be in accordance with the provisions established by section 15.2-2308, Code of Virginia.

Sec. 24.1-901. Powers and duties.

The board of zoning appeals shall have all the powers and duties as prescribed in section 15.2-2309, Code of Virginia, and as set forth below:

- (a) To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this chapter or any amendment thereto or any modification of zoning requirements pursuant to section 24.1-902. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The board shall consider the purpose and intent of any applicable ordinances, laws, and regulations in making its decision.
- (b) To authorize upon appeal or original application in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of this chapter shall be observed and substantial justice done as follows:
 - (1) When a property owner can show that the owner's property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of this chapter, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or the use or development of property immediately adjacent thereto, the strict application of the terms of this chapter would effectively prohibit or unreasonably restrict the use of the property, or where the board of zoning appeals is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this chapter.
 - (2) No such variance shall be authorized by the board of zoning appeals unless it finds:
 - a. That the strict application of the provisions of this chapter would produce undue hardship;
 - b. That the hardship is not shared generally by other properties in the same zoning district and the same vicinity;

- c. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance; and
 - d. That the condition or situation of the property concerned or the intended use of the property is not of such a general or recurring nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter.
- (3) In accordance with section 15.2-2309, Code of Virginia, in authorizing a variance, the board of zoning appeals may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a performance guarantee to ensure that the conditions imposed are being and will continue to be complied with.
- (c) To hear and decide applications for interpretation of the zoning map where there is any uncertainty as to the location of a district boundary.
- (d) None of the provisions of this section shall be construed as granting the board of zoning appeals the power to reclassify property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the board of supervisors.

Sec. 24.1-902. Administrative modification related to physical requirements.

- (a) Pursuant to section 15.2-2286.A.4, Code of Virginia, the zoning administrator may authorize a modification from any provision contained in this chapter with respect to physical requirements on a lot or parcel of land, including but not limited to size, height, location or features of or related to any building, structure or improvements, upon finding in writing all of the following:
 - (1) The strict application of the chapter would produce undue hardship;
 - (2) Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
 - (3) The authorization of the modification will not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by the granting of the modification.
- (b) Prior to the granting of a modification, the zoning administrator shall give, or require the applicant to give, all adjoining property owners written notice of the request for modification, and an opportunity to respond to the request within twenty-one (21) days of the date of the notice. Notice shall be sent by first class mail and an affidavit of such mailing shall be kept in the file, or the applicant may personally deliver the notice to the adjacent property owners and request their written verification of receipt.
- (c) The zoning administrator shall make a decision on the application for modification and issue a written decision with a copy provided to the applicant and any adjoining landowner who responded in writing to the notice provided pursuant to this section. The decision of the zoning administrator shall constitute a decision within the purview of section 24.1-901 and may be appealed to the board of zoning appeals as prescribed by that section. Decisions of the board of zoning appeals may be appealed to the circuit court as provided by section 24.1-904.

On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Bowman, Burgett

December 20, 2005

Nay: (0)

Mrs. Noll then moved to table the removed senior housing provisions of the ordinance.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Bowman, Shepperd, Burgett
Nay: (0)

APPLICATION NO. ST-11-05, YORK COUNTY BOARD OF SUPERVISORS

Mr. Carter gave a presentation on Application No. ST-11-05 to amend Chapter 20.5 of the York County Code to ensure consistency with other sections of the York County Code, to correct certain references, and conform provisions to the Code of Virginia, and to clarify and adjust certain procedures. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Ordinance No 05-33.

Mr. Bowman asked what "traffic calming" measures were.

Mr. Carter explained examples of traffic-calming measures which are speed reduction measures.

Mr. Bowman suggested that these traffic-calming measures might increase the cost of development in the case of "family" subdivision proposals.

Mr. Carter stated that "family" subdivision proposals are exempt from most of the subdivision ordinance provisions.

Chairman Burgett then called to order a public hearing on Application No. ST-11-05 that was duly advertised as required by law. Proposed Ordinance No. 05-33 is entitled:

AN ORDINANCE TO APPROVE APPLICATION NO. ST-11-05 TO AMEND CHAPTER 20.5, SUBDIVISIONS, YORK COUNTY CODE, TO ENSURE CONSISTENCY WITH OTHER SECTIONS OF THE YORK COUNTY CODE, TO CORRECT CERTAIN REFERENCES AND CONFORM PROVISIONS TO THE CODE OF VIRGINIA, AND TO CLARIFY AND ADJUST CERTAIN PROCEDURES

There being no one present who wished to speak concerning the subject application, Chairman Burgett closed the public hearing.

Mr. Bowman moved the adoption of proposed Ordinance No. 05-33 that reads:

AN ORDINANCE TO APPROVE APPLICATION NO. ST-11-05 TO AMEND CHAPTER 20.5, SUBDIVISIONS, YORK COUNTY CODE, TO ENSURE CONSISTENCY WITH OTHER SECTIONS OF THE YORK COUNTY CODE, TO CORRECT CERTAIN REFERENCES AND CONFORM PROVISIONS TO THE CODE OF VIRGINIA, AND TO CLARIFY AND ADJUST CERTAIN PROCEDURES

WHEREAS, Chapter 20.5, Subdivisions, of the York County Code became effective on December 1, 1991, and it has come to the attention of the Board of Supervisors that certain sections and provisions are in need of clarification and adjustment; and

WHEREAS, the York County Board of Supervisors has sponsored Application No. ST-11-05 to allow consideration of various amendments intended to correct these deficiencies; and

WHEREAS, said application has been referred to the York County Planning Commission for review and consideration in accordance with applicable procedures for zoning ordinance text amendments; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing and conducted subsequent deliberations and discussions on the proposed amendments and has recommended approval; and

WHEREAS, the Board has conducted a duly advertised public hearing and has carefully considered the Planning Commission recommendation and public input concerning this application.

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 20th day of December, 2005, that it does hereby approve Application No. ST-11-05 to amend Chapter 20.5, Subdivisions, of the York County Code to read as follows:

Sec. 20.5-4. General rules of interpretation.

For the purpose of this chapter, certain words and terms shall be interpreted as follows:

- (a) Words used in the present tense include the future tense; words in the singular include the plural, and the plural includes the singular unless the obvious construction and context indicates otherwise.
- (b) The word "SHALL" is a mandatory requirement; the words "MAY" and "SHOULD" are permissive requirements.
- (c) The term "PERSON" includes individuals, partnerships, corporations, clubs and associations.
- (d) The word "INCLUDES" and its various forms does not limit a term to the specified examples, but is intended to extend the term's meaning to all instances or circumstances of a similar kind, character, or class.
- (e) Any reference to "THIS CHAPTER" or "THIS ORDINANCE" shall mean the Subdivision Ordinance of York County, Virginia and all amendments hereto; any reference to "THIS CODE" shall mean the Code of the County of York, Virginia and all amendments thereto.
- (f) References to sections of the Code of Virginia are applicable as to the effective date of this chapter. Subsequent changes to those sections, including renumbering, which do not result in a change in content or effect, shall be deemed to be incorporated herein, *mutatis mutandis*.

Sec. 20.5-5. Definitions.

For the purpose of this chapter, certain words and terms shall be interpreted as follows:

Best management practice (BMP). A practice, or combination of practices, that is determined by a state agency or the Hampton Roads Planning District Commission to be the most effective, practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

Buffer. An area, fencing, landscaping, or a combination thereof used to shield or block noise, lights, glare, pollutants, or other potential or actual nuisances. When located within a Chesapeake Bay Preservation Area or Watershed Protection Area, buffer shall mean an area of natural or established vegetation to protect other components of a resource protection area, reservoirs and state waters from significant degradation due to land or other disturbances.

Channel. The bed and banks of a watercourse which conveys the perennial or intermittent flow of that watercourse.

Chesapeake Bay Preservation Area. Any land designated by the county pursuant to the Chesapeake Bay Preservation Area Designation and Management Regulations (9 VAC 10-20-70 et seq.) and sections 10.1-2107, et seq., Code of Virginia of the Chesapeake Preservation Act, as they may be amended from time to time. The Chesapeake Bay Preservation Area consists of a Resource Management Area (RMA) and a Resource Protection Area (RPA).

Detention basin. A manmade or natural water impoundment designed to collect surface and sub-surface water in order to impede its flow and to release it gradually at a rate not greater than that existing prior to the development of the property, into adequate natural and/or manmade outlets or channels. Also referred to as a "dry pond."

Development. . Any man-made change to improved or unimproved real estate including but not limited to buildings or other structures, excavating, mining, filling, grading or paving.

Floodplain. A land area likely to be inundated by a flood.

(Deleted: "Highly eroded soils")

(Deleted: "Highly permeable soils")

Impervious surface. A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to: roofs, buildings, decks, streets, parking areas, and any concrete, asphalt, or compacted aggregate surface.

Open space, common. Open space within or related to a development, not a part of individually owned lots or dedicated for general public use, but designed and intended for the common ownership, enjoyment and use of all the residents or property owners of the development.

Resource Management Area (RMA). The component of the Chesapeake Bay Preservation Area that is not classified as a Resource Protection Area. The RMA is contiguous to and 500-foot landward of the Resource Protection Area or the extent of the 100-year floodplain, whichever is greater.

Resource Protection Area. The component of the Chesapeake Bay Preservation Area comprised of tidal wetlands; nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow; tidal shores; and a vegetated buffer not less than 100-feet in width located adjacent to and landward of the components listed above and along both sides

of any water body with perennial flow. These lands have an intrinsic water quality value due to the ecological and biological processes that they perform or are sensitive to impacts, which may result in significant degradation to the quality of state waters.

Septic system. An underground system with a septic tank and one (1) or more drainlines depending on volume and soil conditions which is used for the decomposition of domestic wastes. This type of system may also be referred to as a soil absorption system.

(Deleted: “Tidal shore”)

(Deleted: “Tributary stream”)

(Deleted: “Water-dependent facility”)

Wetlands. Wetlands are divided into two (2) classes:

- (a) *Nontidal wetlands.* Those wetlands other than tidal wetlands, that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U. S. Environmental Protection Agency pursuant to section 404 of the Federal Clean Water Act, 33 C.F.R. 328.3b, as may be amended from time to time.
- (b) *Tidal wetlands.* Vegetated and nonvegetated wetlands as defined in section 28.2-1300 of the Code of Virginia.

Sec. 20.5-13. Fees.

Plans or plats shall not be deemed to have been filed until the appropriate fee has been paid. All checks shall be made payable to the treasurer of York County.

- (c) Vacation of plat fee. There shall be a fee for processing an application to vacate a plat or part thereof. Said fee shall be exclusive of the costs of posting notice and advertisement as provided in section 15.2-2204, Code of Virginia, or recordation fees which may accrue. The costs shall be borne also by the applicant. The fee shall be in the amount of one hundred fifty dollars (\$150.00) per plat which is proposed to be vacated and shall be paid upon application.
- (d) Appeal/variance fee. There shall be a fee for the processing of an application to appeal the decision of the agent or to request a variance from the terms and conditions of this chapter. Such fee shall be exclusive of the costs of posting notice and advertisement as provided in section 15.2-2204, Code of Virginia, the costs of which shall also be borne by the applicant. The fee, in the amount of two hundred fifty dollars (\$250.00) per request, shall be paid upon application.

Sec. 20.5-26. Preapplication conference sketch plan.

Before the preparation of a preliminary plan for a subdivision, the subdivider is advised and encouraged to confer with the agent and such other agencies or departments as the agent may deem advisable relative to the terms of this chapter, the zoning ordinance, the comprehensive plan, and other pertinent ordinances and regulations. The purpose of such a preapplication conference is to assist the subdivider to gain a thorough understanding of all the requirements applicable to the particular property and to advise the subdivider of any recent, impending, or proposed changes in those requirements.

- (a) For the purposes of this conference, the subdivider is encouraged to prepare and submit a sketch plan of the proposed subdivision for informal review and comment by the agent and such other agencies or departments as the agent may deem advisable.
- (b) The sketch plan may be a pencil sketch on a 1"=100' scale topographic map of the property and should show the general location, arrangement, and dimensions of lots, streets, and other proposed improvements.
- (c) A preliminary draft of the Natural Resources Inventory, as defined in Chapter 23.2, that shows the location, if any, of Chesapeake Bay Preservation and wetlands areas should accompany the sketch.
- (d) Sketch plans submitted for this conference and reviewed by the agent shall be nonbinding on both the subdivider and the county.
- (e) There shall be no fee for the review of a sketch plan and the agent, if so requested by the subdivider, shall provide written comments to the subdivider within thirty (30) days of the submission of a sketch plan.

Sec. 20.5-27. Classification of subdivisions.

Subdivisions shall be classified as follows:

- (a) *Public service lots, rights-of-way.* When a lot is created for the sole purpose of developing a sewage or water facility or any other public facility, or for the sole purpose of widening or enlarging a road right-of-way, to be owned and operated or maintained by the Commonwealth of Virginia, county, other governmental or municipal entity, service authority, or sanitary district and title to such property passes at the same time as the plat is recorded, such lot shall be exempt from the requirements of this chapter except that the record plat shall adhere to the standards established in section 20.5-31(a) of this chapter. In the event that acquisition of a road right-of-way for a street, road or highway by the county or an agency or department of the Commonwealth of Virginia or the United States bisects an existing parcel, the result shall be deemed to constitute a lawful subdivision of the parcel only if both of the resulting parcels meet the minimum lot area and dimensional requirements specified for the zoning district in which located. In the event this is not the case, the parcel shall be deemed to remain a single parcel, despite the fact that it is bisected by a public right-of-way.

- (e) *Boundary line adjustment.* A boundary line adjustment shall be a resubdivision of a part of an otherwise valid and properly recorded plat of subdivision, or of two (2) or more adjacent lots, where no additional lots are created and existing or platted streets, rights-of-way, public easements, and public improvements are unaffected by such action. Further, no private easements or private rights-of-way shall be relocated or altered without the recordation of appropriate documents effecting such relocation or alteration. Typically, a boundary line adjustment is a minor realignment of a single line between two (2) platted lots.

Neither a preliminary plan nor a development plan shall be required of boundary line adjustments provided, however, that nothing in this provision shall be interpreted to authorize the creation of a lot or lots which would otherwise be prohibited. Further,

boundary line adjustments involving one (1) or more legally nonconforming lots shall not be permitted where the result of such adjustment would increase the degree of nonconformity or cause the lot to be buildable only with approval of an exception to the Chesapeake Bay Preservation Area requirements or other variance. Where the agent determines that the proposal goes beyond the intended minor realignment, he shall notify the subdivider, in writing, of such finding and, in so doing may require the submission of more detailed plans for review.

Sec. 20.5-28. Preliminary plan.

Any person desiring to subdivide land shall, unless exempted under the provisions of section 20.5-27, prepare and submit thirteen (13) copies (12 folded, 1 rolled) of a preliminary plan to the agent together with a completed application and the appropriate fee.

- (a) *Initial review by agent.* Upon the submission of a preliminary plan together with a completed application, Natural Resources Inventory and the appropriate fee, the agent shall, within five (5) working days, review the plan to ensure compliance with all submission requirements established by article III of this chapter. Where the agent determines that all applicable submission requirements have not been met, the plans and application shall be returned to the subdivider with a written notice stating the specific deficiencies, referencing specific ordinances, regulations or policies, and generally identifying such modifications or corrections as will permit compliance with all submission requirements.

- (4) Where the agent has required that revisions or other actions, changes, conditions, or additional information be incorporated into the preliminary plan prior to approval, the subdivider shall resubmit, without additional fee, thirteen (13) copies (12 folded, 1 rolled) of the revised plan together with the original or a copy of any marked plans returned to the subdivider by the agent. In addition, a narrative description shall be submitted regarding how each of the actions, changes, conditions, or additional information required has been addressed on the revised plan. The revised plan shall then be reviewed in the same manner and within the same time elements as was the original.

Sec. 20.5-29. Development plan.

The subdivider shall, unless otherwise provided by section 20.5-27 of this chapter, after receiving approval of the preliminary plan and within the time specified in section 20.5-28(d), submit thirteen (13) copies (12 folded, 1 rolled) of a development plan for the subdivision or section thereof prepared in accordance with article IV of this chapter to the agent together with the appropriate application and fee.

- (4) Where the agent has required that revisions or other actions, changes, conditions, or additional information be incorporated into the development plan prior to approval, the subdivider shall resubmit, without additional fee, thirteen (13) copies (12 folded, 1 rolled) of the revised plan together with the original or a copy of any marked plans returned to the subdivider by the agent. In addition, a narrative description shall be submitted regarding each of the actions, changes, conditions, or additional information required has been addressed on the revised plan. The revised plan shall then be reviewed in the same manner and within the same time elements as was the original.

Sec. 20.5-30. Final plat.

The subdivider shall, unless otherwise prescribed in section 20.5-27 of this chapter, after approval of the development plan and within the time specified in section 20.5-29(d), submit thirteen (13) copies (12 folded, 1 rolled) of the final plat for those sections contained on the approved development plan to the agent for review and approval. The final plat shall be prepared in accordance with article V of this chapter and shall be submitted together with the applicable application and fee. The agent may, upon written request and for good cause shown, accept for review final plats before approval has been granted to development plans, however approval of a final plat requires that it fully conform with the approved development plan, if such a plan is required.

Sec. 20.5-32. Vacation of plats.

Any recorded plat, or part thereof, may be vacated pursuant to the provisions of sections 15.2-2270 to 15.2-2278, Code of Virginia, both sections inclusive, as applicable.

Sec. 20.5-34. Special provisions for family subdivisions.

A single division of a lot or parcel is permitted for the purpose of sale or gift to a member of the immediate family of the property owner. For the purposes of this section, a member of the immediate family is defined as any person who is a natural or legally defined offspring, eighteen years (18) of age or older, or an emancipated minor under section 16.1-331 et seq., Code of Virginia, or parent of the owner. Such subdivision shall be subject to the following provisions:

- (a) Only one (1) such division shall be allowed per family member, as defined above, and shall not be made for the purpose of circumventing this chapter. Lots created under this section shall be titled in the name of the immediate family member for whom the subdivision is made for a period of no less than three (3) years unless such lots are subject to an involuntary transfer such as foreclosure, death, judicial sale, condemnation or bankruptcy.
- (b) The minimum width, yard, and area requirements of all lots, including the remaining property from which the lot is subdivided, shall be in accordance with the applicable provisions of the zoning and Chesapeake Bay Preservation Area ordinances. Land proposed for subdivision shall be suitable for platting in accordance with section 20.5-66.
- (c) The provisions of this section shall apply only to those properties having a single-family residential zoning district classification.
- (d) For property not served with public water and public sewer, each lot shall have a primary and reserve septic system and a water source approved by the health department with evidence of such approval shown on the subdivision plat. If public water and public sewer facilities are available, as defined in this chapter, to the property proposed to be subdivided then all proposed lots shall be served by such facilities in accordance with applicable provisions of the Code.
- (e) Each lot or parcel of property shall front a public road or shall front upon a private driveway or road which is in a permanent easement of right-of-way not less than twenty feet (20') in width. Such right-of-way shall include a driveway within it consisting of, at a minimum, an all-weather surface of rock, stone or gravel, with a minimum depth of three inches (3") and a minimum width of ten feet (10'). The right-of-way shall be maintained by the adjacent property owners in a condition passable by emergency vehicles at all times. A notation to this effect shall be placed on the face of the final plat and this provision shall also be included in the deeds by which the subdivision is effected. Passable condition refers not only to the surface, but also to horizontal and vertical

clearance. An erosion and sediment control plan with appropriate surety shall be submitted for approval if the proposed right-of-way and driveway construction disturbs more than two thousand five hundred (2,500) square feet. The plat and deeds for the lots created under these provisions shall also include a notation acknowledging that neither York County nor the Virginia Department of Transportation shall incur any obligation for future maintenance or improvement of any private driveway serving such lots regardless of the number of lots such driveway serves.

- (f) Drainage and utility easements shall be dedicated to the county when deemed necessary by the agent to accommodate drainage and/or sanitary sewer facilities, whether for current or future needs, in accordance with applicable provisions of the county code.
- (g) For property which fronts on an existing street or streets whose rights-of-way are, in accordance with section 20.5-94, deficient in width, one-half (½) of the right-of-way width deficiency shall be dedicated by the subdivider at the time of plat recordation.

Sec. 20.5-47. Submittal requirements.

The subdivider shall submit to the agent thirteen (13) copies (12 folded, 1 rolled) of the preliminary plan on twenty-four inch by thirty-six inch (24" x 36") blue-line or black-line prints at a scale of one hundred feet (100') to the inch, except in cases where the agent has approved an alternate scale to facilitate showing the entire development on a single sheet. Where more than one (1) sheet is used, sheets shall be numbered in sequence and match-lines shall be provided and labeled.

The following information shall be shown on or appended to the preliminary plan:

- (d) A table of land use and statistical data, including:
 - (1) The total acreage of the property or properties to the nearest acre;
 - (2) The acreage of the area to be subdivided to the nearest acre;
 - (3) The zoning district classification;
 - (4) A summary of the zoning district requirements including minimum lot size, yard and setback requirements, open space, and any other pertinent requirements;
 - (5) The acreage and percentage of the total area which is classified as undevelopable area as defined in section 24.1-203 of the zoning ordinance;
 - (6) The acreage and percentage of the total area anticipated to be included within common areas;
 - (7) The acreage and percentage of the total area anticipated to be maintained as landscaped open space;
 - (8) The acreage and percentage of the total area anticipated to be contained within road rights-of-way;
 - (9) The acreage and percentage of the total area anticipated to be impervious surface area for the entire subdivision and also the area of anticipated impervious cover for each lot;
 - (10) The acreage and percentage of the total area anticipated to be included in the resource protection area and resource management area; the acreage of

buildable area outside of the RPA on each lot as required by section 23.2-7(c) of this code.

- (11) The number of lots;
- (12) The maximum, minimum, and average lot areas.

- (l) A master drainage plan showing the proposed major drainage system, including significant existing and proposed structures and major stormwater management facilities proposed to convey the subdivision drainage to an adequate channel, pipe or stormwater system. The preliminary plan shall be required to include only approximate sizing of major pipes and ditches, general location and extent of all existing and proposed drainage utility easements, and the location and approximate dimensions of significant existing or proposed stormwater management facilities.
- (m) The approximate location of any floodplain area as depicted on the flood insurance rate map (FIRM) for York County, Virginia including the flood hazard zone designation(s) and elevation(s).
- (n) The approximate location and identification by size and common name of all heritage, memorial, and/or specimen trees located within proposed rights-of-way or utility easements.
- (o) The approximate location and extent of any known or suspected archaeological sites, historic sites, cemeteries, individual grave sites, and other similar cultural resources and including, as an attachment, a narrative description of the resource and its potential significance.
- (p) Identification of any portion or portions of the property which are located in the Watershed Management and Protection Area, Chesapeake Bay Preservation Area or a sensitive natural area, as defined in section 24.1-260(d) of the zoning ordinance.

Sec. 20.5-48. Contents.

In addition to the information required to be shown on the preliminary plan, the following materials shall be submitted to the agent at the time of application to supplement the plan sheets:

- (a) Three (3) copies of impact analyses as may be required by article VIII of this chapter.
- (b) Three (3) copies of a Natural Resources Inventory as described in Chapter 23.2 including preliminary wetlands delineations.
- (c) A disclosure statement containing the following information:
 - (1) A statement as to the title to all of the land comprising the subdivision or development, including all deed restrictions and covenants which are, or are proposed to be, applicable thereto.
 - (2) A statement as to the presence of any known environmental or health hazards on or within the property and the condition of such hazards, including responsibility and potential effect on human health and the natural environment.
- (d) Where phases are proposed, a development schedule shall be submitted which shall clearly delineate the proposed phases and include a proposed schedule for the provision of improvements and facilities in conjunction with the proposed phases.

Sec. 20.5-52. Submittal requirements.

The subdivider shall submit to the agent thirteen (13) copies (12 folded, 1 rolled) of the development plan on twenty-four inch by thirty-six inch (24" x 36") blue-line or black-line prints at a horizontal scale no smaller than five feet (5') to the inch and a vertical scale of five feet (5') to the inch except in cases where the agent has approved an alternate scale. Where more than one (1) sheet is used, sheets shall be numbered in sequence and match-lines shall be provided and labeled.

The following information for the subdivision or part thereof shall be shown on the development plan or within the attachments to the development plan:

(d) Land use data, including:

- (1) The total acreage of the property or properties to the nearest one-tenth (.10) acre;
- (2) The acreage of the area to be subdivided to the nearest one-tenth (.10) acre;
- (3) The acreage and percentage of the total area of undevelopable areas as defined by section 24.1-203 of the zoning ordinance;
- (4) The zoning district classification;
- (5) A summary of zoning district requirements including minimum lot size, yard and setback provisions, and any other pertinent regulations such as the cluster requirements, if that technique is being utilized;
- (6) The acreage and percentage of the total area included within common areas;
- (7) The acreage and percentage of the total area within landscaped open space areas;
- (8) The acreage and percentage of the total area within road rights-of-way;
- (9) The acreage and percentage of the total area of impervious surface area within the proposed subdivision and including the maximum allowable impervious cover for each lot that has been used in the stormwater management system design;
- (10) The acreage and percentage of the total area within resource protection areas and resource management areas respectively; including the acreage of buildable area outside of the RPA on each lot as required by section 23.2 -7(c) of this code.
- (11) The number of lots or units;
- (12) The density, both net and gross;
- (13) The maximum, minimum, and average lot sizes.

- (k) Existing and proposed site topography at a contour interval of no more than two feet (2') based on mean sea level with spot elevations provided at and along all proposed grade changes. At a minimum, the existing and proposed elevation at each corner of each lot along with the existing and proposed high or low point between lot corners shall be pro-

vided. Areas having slopes in excess of thirty percent (30%) shall be delineated on the plan.

- (l) A drainage plan showing the proposed drainage system including all existing and proposed culverts, drains, open ditches, storm drain pipes, watercourses, lakes and other stormwater management facilities proposed to convey the subdivision drainage to an adequate channel, pipe or stormwater system. Stormwater management criteria consistent with the provisions of the Virginia Stormwater Management Regulations (4 VAC 3-20), as they may be amended from time to time shall be satisfied. The development plan shall include detailed information about the sizing of all pipes and ditches, types of pipes, ditch linings, location and extent of drainage easements, and the location and extent of all existing or proposed stormwater management facilities, their depths, slopes, invert elevations, lining, and other pertinent data. Drainage calculations shall be submitted with drainage area maps showing the pre and post development conditions and the route of the travel used to determine the time of concentration to verify the design of the drainage system including the downstream adequacy of the channel, pipe or stormwater system receiving run-off from the subdivision. Positive drainage off of each lot must be demonstrated and the direction of drainage flows shall be shown on the plan.
- (m) An erosion control plan showing the location, type, and details of proposed erosion and sediment control devices to be used during and after construction. The erosion control plan shall meet or exceed all requirements of chapter 10 of this Code (Erosion and Sediment Control Ordinance) and shall be provided as a separate plan sheet

- (t) Identification of any portion or portions of the subdivision or phase thereof which is or may be located in a Watershed Management and Protection Area or Chesapeake Bay Preservation Area. Such identification shall be accompanied by a Natural Resources Inventory as defined in Chapter 23.2 and shall also include information concerning any natural areas identified pursuant to the requirements of section 24.1-260(d) of the zoning ordinance.

Sec. 20.5-53. Contents.

In addition to the information required to be shown on the development plan, the following materials shall be submitted to the agent to supplement the plan sheets:

- (f) Evidence that all required environmental permits from the U. S. Army Corps of Engineers, Virginia Department of Environmental Quality, Virginia Marine Resources Commission and/or the York County Wetlands/Chesapeake Bay Board have been obtained or are unnecessary shall be submitted where the Natural Resources Inventory indicates that wetlands, State waters, waters of the US and/or Chesapeake Bay Preservation Area disturbances will occur as a result of the proposed subdivision.

Sec. 20.5-57. Submittal requirements.

The subdivider shall submit to the agent thirteen (13) copies (12 folded, one rolled) of the final plat on blue-line or black-line prints at a scale of one hundred feet (100') to the inch except in cases where the agent has approved an alternate scale. Where more than one (1) sheet is used, sheets shall be numbered in sequence and match-lines shall be provided and labeled. The size of any final plat shall be eighteen inches by twenty-four inches (18" x 24").

The following information for the subdivision or part thereof shall be shown on the face of the final plat:

- (b) The location of the proposed subdivision or part thereof on an inset map at a scale of not less than two thousand feet (2,000') to the inch, showing adjoining roads, their names and state route numbers, towns, subdivisions, watercourses, and other landmarks. Said inset map shall be oriented north.

- (d) The location of any primary geodetic control network monument within the boundaries of the tract or within two (2) kilometers of the property with reference, identification and the X-Y coordinate value in U.S. survey feet or meters. Show and label the location(s) of the Primary Geodetic Control Monument(s) on the inset (vicinity) map.

- (k) The location of any resource protection area, resource management area and/or watershed management area including delineation of all required buffers and setbacks.

- (o) The certificate of consent and dedication duly signed and notarized by all owners, including trustees, if any, in the format required by section 15.2-2264, Code of Virginia.
- (p) The certificate duly signed by a land surveyor setting forth the source of title in accordance with section 15.2-2262, Code of Virginia, and certifying that the monuments and survey markers shown on the plat have been correctly located and installed.

Sec. 20.5-58. Contents.

In addition to the information required to be shown on the face of the final plat, the following materials shall be submitted to the agent provided, however, that any document previously submitted, and which has not substantially changed, shall not be required to be resubmitted unless expressly requested by the agent in writing:

- (d) Unless previously submitted, evidence as required by section 20.5-53(f) that environmental permits have been obtained or are unnecessary.

Sec. 20.5-66. Suitable land.

The agent shall not approve the subdivision of land if it is determined by the agent that the site is not suitable for platting because of possible flooding, improper drainage, steep slopes, inadequate water or sanitation, the existence of utilities and easements or other features deemed not to be in the best interests of the public safety, health and general welfare.

Each lot shall be suitable for a building site. Where public utilities are unavailable, each lot, other than recreation or public service lots, shall pass a percolation test for the installation of a septic system with both a primary and a one hundred percent (100%) reserve drainfield and have a suitable location for a potable water well. Land not suitable within a proposed subdivision shall be platted only for uses not endangered by periodic or occasional inundation and only where it will not produce conditions contrary to the public welfare. Otherwise, such non-suitable land shall be combined with other lots.

Sec. 20.5-69. Underground utilities.

- (c) Whenever any existing on-site above ground utilities require relocation for any reason, they shall be removed and placed underground. In the event the development impacts existing off-site above ground utilities and necessitates their relocation onto the development site, such utilities shall be placed underground at the developer's cost, and the developer shall secure all necessary permits, easements, and approvals for such work.

Sec. 20.5-70. Lots.

Standards for lots are as follows:

- (a) *Size.* The minimum lot size and dimensions shall be in accordance with the zoning ordinance requirements for the zoning district in which the proposed subdivision is located. This does not apply to open space developments (cluster techniques) in accordance with section 24.1-402 of the zoning ordinance. All newly created lots located within Chesapeake Bay Preservation Areas, whether in a conventional or open space development, shall be of sufficient size to meet the special lot size requirements applicable in Chesapeake Bay Preservation Areas (reference section 23.2-7 of this code).
- (b) *Arrangement, design and shape.* The lot arrangement, design and shape shall relate to the natural topography and features of the land so that each lot has an acceptable building site with direct access from an improved street and adequate buildable area outside any Resource Protection Area (RPA) buffers. Unusually shaped or elongated lots established primarily for the purpose of meeting minimum lot size requirements, when such area would be unusable for the usual purposes to which such area would normally be placed, shall not be permitted by the agent.
- (c) *Location.* Each lot shall abut and have access to either a proposed public street right-of-way to be dedicated by the subdivision plat or an existing public street, unless otherwise specifically provided for in section 20.5-102 or article IX of this chapter. If the existing streets to which lots abut do not meet the minimum width requirements established by the department of transportation for street of that functional classification (traffic volume), the subdivider shall dedicate the necessary right-of-way and construct the necessary pavement for such purpose in accordance with the standards established by section 20.5-93 of this chapter.

Sec. 20.5-73. Water.

Requirements for the provision of water within subdivisions are as follows:

- (e) *Fire protection.* Fire hydrants shall be installed in subdivisions at locations designated by the agent, in consultation with the department of fire and life safety, at the time of an extension of public water or construction of a central water system. Where the subdivision is to be developed with individual wells, the agent, in consultation with the department of fire and life safety, may require that alternative sources of water for fire suppression purposes be made available including construction of a fire suppression well system, provision of "dry" hydrants, and/or easements granting access to water

sources. All fire hydrants located within a road right-of-way shall be placed between one foot (1') and three feet (3') from the edge of such right-of-way.

Sec. 20.5-74. Sewer.

Requirements and standards for sewage disposal in subdivisions are as follows:

- (a) *Public sewer.* If public sewer is available in accordance with other provisions of the Code (whether or not separated from the subject property by a hard surfaced road), it shall be extended to all lots within the subdivision including recreation areas where, because of their size and configuration, construction of facilities requiring connection to sewer is anticipated, but not remnants unsuited for building.
- (b) *Individual sewer.*
 - (1) If public sewer is not available, subdivisions with lots served by septic systems may be approved by the agent provided that the following documented proof of each of the following is submitted:
 - a. Both a primary location and a one hundred percent (100%) reserve location for the septic system will be provided, neither of which shall be located, in whole or in part, in the resource protection area;
 - b. The location and design for each septic system (both primary and reserve) has been accomplished in accordance with the most current edition of the "Sewage Handling and Disposal Regulations" of the Virginia Department of Health and all applicable provisions of this Code and has been specifically and individually approved by the health department;
 - c. Contamination or pollution of wells, groundwater, state waters, reservoirs, or any Chesapeake Bay resource preservation area or resource management area is unlikely to occur from any proposed individual septic system.
 - (2) Any such subdivision submitted for review shall include the specific locations proposed for both primary and reserve on-site septic system installations with documentation of health department approval for each proposed location. Any proposed lots not suitable for the installation of private sewage disposal systems shall either be combined with lots that are suitable or dedicated to common open space or recreation use, so that only buildable lots are created.
- (c) *Construction standards.*
 - (1) All sewage disposal systems shall be constructed in accordance with all applicable construction standards contained in this Code and policies adopted by the county pursuant thereto. A construction permit shall be issued by the county administrator prior to the commencement of construction.
- (d) *Off-Site sewer facilities costs.*

Where sewer facilities and improvements located outside the limits of the project are required to be constructed, the subdivider shall be eligible for such credits or cost sharing arrangements as are stipulated in this Code.

Sec. 20.5-75. Drainage.

Standards for drainage within subdivisions are as follows:

- (a) Improvements. Drainage and stormwater management facilities shall be provided, either on-site or off-site, to reduce drainage flows, pollutants, and sediment loading from the subdivision to levels in accordance with the requirements of the Virginia Stormwater Management Regulations (4 VAC 3-20), as they may be amended from time to time, or to a lesser level if deemed necessary to comply with other provisions of this Code. The agent shall approve, or approve with modifications, only those stormwater management facilities which comply with the Virginia Stormwater Management Regulations and adopted overall drainage plans and policies, if any. In this regard, the agent shall not generally approve, except as a temporary measure, on-site stormwater management facilities as an alternative to contributing (in accordance with the provisions of paragraph (b) of this section) to planned regional stormwater management systems. All management facilities shall be designed and constructed in accordance with the Erosion and Sediment Control Ordinance (chapter 10 of this Code) as supplemented by the latest editions of the Virginia Erosion and Sediment Control Handbook, Virginia Stormwater Management Handbook and the Virginia Department of Transportation Drainage Manual as well as those laws, ordinances, criteria, regulations, or policies adopted by the Commonwealth or the county.

Sec. 20.5-76. Pedestrian and bicycle facilities.

Standards for pedestrian and bicycle facilities in subdivisions are as follows:

- (a) Sidewalks shall be provided as required by the zoning ordinance; at a minimum, sidewalks shall be installed along at least one side of all subcollector and higher order streets in all residential subdivisions having a net density of two (2) dwelling units per acre or greater.
- (b) Where sidewalks have been installed or guaranteed for installation by some form of performance guarantee along an existing street, any extension of said existing street into a proposed subdivision shall also extend the sidewalks.
- (c) Unless otherwise excepted by the agent, sidewalks shall be separated from the rear of the curb in accordance with the following standards based on the street classifications in section 20.5-91:

Street Classification	Minimum Separation
Access	3
Subcollector	3
Minor Collector	4
Major Collector	6
Minor Arterial	8
Major Arterial	10

The area of separation between the curb and sidewalk shall be planted with appropriate street trees at a minimum ratio of one (1) tree per each forty (40) linear feet of sidewalk.

- (d) The agent may modify or waive these sidewalk standards where the subdivider proposes to install a dual-purpose pedestrian and bicycle trail system which would serve

substantially the same purpose as the sidewalk requirements contained herein. Such facility shall be designed and constructed in accordance with the applicable provisions of the standards for recreational facilities adopted by the county or other acceptable standard or facility design approved by the agent.

- (e) Where the proposed subdivision is adjacent to public use property including parks, schools, libraries, public recreation facilities and similar areas, the subdivision shall be connected to said public use property by means of a dual-purpose pedestrian and bicycle trail which shall be designed and constructed in accordance with the applicable provisions of the standards for recreational facilities adopted by the county or other acceptable standard or facility design approved by the agent.
- (f) Sidewalks shall be designed and located, with the intent of providing security, tranquility and privacy for occupants of adjoining property and safety for users of the walkways.

Sec. 20.5-77. Streetlights.

Standards for streetlights in subdivisions are as follows:

- (a) At a minimum, streetlights shall be provided by the subdivider at roadway intersections and at such other locations as may be designated by the agent in consultation with the department of transportation and in accordance with the York County Streetlight Installation Policy as established by the board of supervisors. Unless otherwise approved by the agent, streetlights shall conform with the following standards:
 - (1) All fixtures and mounting devices shall be architecturally compatible with the subdivision. In this regard, "cobra-head" or other fixtures with a horizontal extension between the mounting pole and the luminaire of more than eighteen inches (18") shall not be approved in residential subdivisions.
 - (2) On access, subcollector, and minor collector streets, mounting poles shall be installed in accordance with the clear zone requirements specified in the Virginia Department of Transportation Subdivision Street Design Manual.
 - (3) The lighting plan shall be designed to illuminate roads, intersections and pedestrian facilities constructed within and along the boundaries of the subdivision.
 - (4) Luminaires shall be installed so as to reduce or prevent direct glare into residential units.
- (b) The subdivider shall deposit the applicable installation/operations fee for the streetlight(s) with the agent once the costs have been determined by Dominion Virginia Power. Sufficient performance surety shall be maintained by the subdivider for any required streetlights until the installation/operations fee has been paid.

Sec. 20.5-80. Street signs.

- (a) Permanent street identification signs of a design approved by the agent shall be installed at all intersections by the subdivider. Permanent street signs shall have reflective backgrounds and lettering and shall conform with the following size standards based on the existing or anticipated posted speed limit of the roadway to which the sign faces:

		Lettering Height	
Speed Limit	Sign Size	Upper	Lower

		case	case
≤ 35 mph	9" x 30-48"	5"	2½"
36-50 mph	12" x 30-60"	6"	3"
> 50 mph	18" x 55"	12"	9"

The agent will arrange for fabrication and installation of such signage upon the payment of the applicable fee as determined in accordance with section 20.5-13(e).

- (b) Prior to the issuance of building permits, temporary street identification signs shall be installed, by the subdivider, at all street intersections through which access to the lot(s) upon which construction will occur passes.

Sec. 20.5-81. Entrance signs.

Entrance signs or monuments to identify the subdivision shall conform with the provisions of the zoning ordinance and the following standards:

- (a) The maximum size and the maximum height of such signs shall be in accordance with the standards established in chapter 24.1, zoning, of this code. . Signs have a minimum setback requirement of ten feet (10') and shall not encroach into sight triangles required by section 20.5-101.
- (b) Only the subdivision name and logo and any symbols indicating compliance with or participation in a governmentally sponsored or mandated fair housing practices program or code may be placed on any such sign. The agent may authorize signs on both sides of a development entrance, and at multiple entrances to the development, provided that no individual sign shall exceed the allowable sign area specified by the zoning ordinance.
- (c) Where such signs are to be illuminated, only external illumination shall be permitted and the size, placement, and number of luminaires shall be reviewed and approved by the agent.
- (d) A landscaped planting area shall be provided surrounding the base of such sign. The minimum size of such planting area shall be four (4) square feet for each one (1) square foot of sign area. Appropriate groundcovers (other than grass) and shrubs shall be installed within the planting area, including a minimum of six (6) shrubs.
- (e) Walls, fences and other similar treatments which delineate or define the entrance to or boundaries of a subdivision shall require the submission of architectural renderings for approval by the agent.
The agent shall deny or require modification of plans for such features when he finds that the installation would be visually obtrusive upon adjacent properties or public streets, be incompatible with the character of existing or anticipated surrounding development, or conflict with other goals and policies of the county.

Nothing contained in this section shall be interpreted to prevent the mounting of entrance signs on decorative fences or walls.

Sec. 20.5-83. Preservation of natural features and cultural resources.

The natural terrain and features of the land, including heritage, memorial, significant and specimen trees, natural watercourses, perennial streams and other water areas, historic and archaeological sites, scenic areas and other features and resources worthy of preservation located within the area encompassed by any proposed subdivision of property in the county shall be preserved and protected during the development process to the extent possible while enabling reasonable development of property. In this regard, no more land disturbance than absolutely necessary to accommodate reasonable development shall occur and extensive cut and fill of the natural topography shall not be allowed.

The removal of trees or the clearing and grading of land by the subdivider shall be generally permitted only to accommodate the construction and installation of those improvements required by this chapter or other portions of this code or on those lots for which a valid building permit has been issued. Mature trees throughout the remainder of the area encompassed by any proposed subdivision of property shall be protected in accordance with the Virginia Erosion and Sediment Control Manual or other generally accepted tree protection measure during construction and installation of subdivision improvements. In any case, limits of clearing and grading shall be clearly shown on development plans.

Sec. 20.5-84. Landscaping, buffers and screening.

(b) *Tree planting and replacement.*

- (1) In accordance with section 15.2-961, Code of Virginia, trees shall be preserved, planted or replaced on all residential lots, excluding recreation lots. Tree preservation/planting shall be accomplished such that, within twenty (20) years growing time, the minimum tree canopy or cover on residential lots shall be twenty percent (20%).
- (2) The required tree canopy or cover shall generally be evenly distributed across the lot with a preference for trees located in front of the principal building and along the rear property line.
- (3) The calculation of tree canopies shall be based on the Manual of Woody Landscape Plants, 4th edition, 1990, by Michael A. Dirr (ISBN 0-87563-347-1) or Street Tree Factsheets, 1993, Municipal Tree Restoration Program, Pennsylvania State University (ISBN 1-883956-00-5) as they may from time to time be amended.
- (4) Existing trees which are to be preserved and used to meet all or part of the canopy requirements shall be protected before, during, and after the development process in accordance with those standards contained in the zoning ordinance.
- (5) Newly planted trees and shrubs shall be selected, installed and maintained in accordance with the standards contained in the zoning ordinance.
- (6) In all subdivisions in nonindustrial zoning districts, deciduous shade trees shall be planted as street trees along all rights-of-way within and abutting the subdivision. Such trees shall be located either within the right-of-way itself or within a ten-foot (10') landscape preservation easement contiguous to such right-of-way and shall contain, at a minimum, one (1) tree planted approximately every forty feet (40'). Where located within an easement, the subdivider shall dedicate the easement together with a maintenance easement to the property owners' association or other entity approved by the agent and county attorney. All trees planted to meet this requirement shall have a minimum caliper of two and one-half inches (2½") and conform with the relevant provisions of the zoning ordinance. Existing trees which are within twenty feet (20') of the edge of the right-of-way and which are protected and preserved in accordance with the standards

contained in the zoning ordinance may be used to satisfy the planting requirement.

- (7) The subdivider shall have the option to meet the requirements of this subsection through actual installation/retention, a postponed improvement agreement with surety, establishment of restrictive covenants, or some combination which achieves the same intent.
- (c) *Buffers.* A landscaped buffer, broken only by necessary entrances approved by the agent, shall be established on all residential lots along all major roads abutting a proposed subdivision. Such roads shall be defined to include Routes 17, 105, 132, 134, 143, 171, 199, and Interstate 64 and such other routes as may be specified in section 24.1-245 of the zoning ordinance.
- (1) The minimum width of said landscaped buffer shall be thirty-five feet (35'), or such greater dimension as may be prescribed by the zoning ordinance, measured from the edge of the existing or reserved right-of-way.
 - (2) A landscape preservation easement, acceptable as to content and form by the county attorney and encompassing the required buffer, shall be granted to the county.
 - (3) The buffer shall be landscaped in accordance with the landscaping requirements contained section 24.1-243 of the zoning ordinance, provided however, that lakes which are at least thirty-five feet (35') in width and are adjacent to such roadways shall be deemed to meet this requirement without the provision of the landscaping required herein.

Sec. 20.5-85. Chesapeake Bay preservation area.

Within Chesapeake Bay preservation areas, all development associated with the subdivision of land shall comply with the special performance standards and requirements set forth in Chapter 23.2. Lot size shall be subject to the requirements of the underlying zoning district(s) provided, however, that any newly created lot shall have sufficient area outside the RPA within which to accommodate the intended development in full accordance with the performance standards set forth in Chapter 23.2 so that no land disturbance will occur in the RPA, except for such development otherwise specifically allowed in the RPA by the terms of Chapter 23.2. On newly created lots, the lot size and configuration shall be such that principal buildings can be located at least ten (10) feet from the RPA buffer.

Sec. 20.5-86. Common property.

All lands and improvements which are not a part of individual lots or dedicated to the ownership and use of the general public but which are for the mutual benefit of the persons residing in or owning lots in the subdivision shall be established, designated, and maintained as common property. Such property shall not be developed for commercial or residential purposes or for the exclusive use of any individual within the subdivision. The creation of such property shall conform in all respects to the requirements set forth in section 24.1-496 through 499 of the zoning ordinance.

Sec. 20.5-91. Street and road classifications.

All new streets and roads shall be classified as "local" streets as defined by the Virginia Department of Transportation and, for the purposes of this chapter, shall be further classified according to their function and the projected average daily traffic (ADT). Average daily traffic shall include all traffic projected to result from the complete development of land served by the

subject street, including both internal and external trips. The trip generation rates contained in the most current edition of the Trip Generation Manual (Institute of Transportation Engineers, (shall be used to determine the projected ADT. The classification based on ADT shall take precedence over the functional description for purposes of determining street geometrics.

Sec. 20.5-92. Alignment and layout.

- (a) In accordance with section 15.2-2241-2, Code of Virginia, all proposed streets shall be designed to coordinate with other existing or planned streets contiguous to or within the general area of the subdivision or within existing or future adjacent subdivisions as to location, width, grades, and drainage. Connections with existing or platted streets shall be continuous without offset.
- (b) The agent shall require that adequate rights-of-way are platted and dedicated for public use to the boundary line(s) of the subdivision which will afford desirable and safe street access to adjoining properties when such properties are of a compatible land use designation. In such cases, the following requirements shall apply:

- (1) These rights-of-way shall be clearly marked on the plats and labeled "Future Public Street" or "Future Public Street Extension" as appropriate. In addition, a sign shall be posted on the stub street right-of-way indicating that it is intended as a "Future Public Street Extension." Such sign shall be fabricated and installed by the County, with the costs of fabrication/installation to be paid by the subdivider.
- (2) The following notation in, at a minimum, twelve (12) point lettering shall be incorporated into any plat showing a stub or future street:

THIS RIGHT-OF-WAY IS PLATTED WITH THE INTENT OF BEING EXTENDED AND CONTINUED IN ORDER TO PROVIDE INGRESS AND EGRESS TO AND FROM ADJOINING PROPERTIES.

- (3) The following statement shall be included on the conveyance documents for any lot on a stub or future street:

THE RIGHT-OF-WAY UPON WHICH THIS LOT FRONTS HAS BEEN PLATTED WITH THE INTENT OF IT BEING EXTENDED AND CONTINUED IN ORDER TO PROVIDE INGRESS AND EGRESS TO AND FROM ADJOINING PROPERTIES, AS SHOWN ON THE PLAT RECORDED IN PLAT BOOK _____, PAGE _____/INSTRUMENT NO._____, CIRCUIT COURT FOR YORK COUNTY.

- (c) Where a street right-of-way in an existing subdivision or development has been platted to the boundary line of a proposed subdivision, it shall be extended and continued into such proposed subdivision unless the extension is specifically precluded by an approval by the board of an overall development master plan for the proposed subdivision as part of the establishment of a planned development district, or unless a waiver is granted by the agent after review by the department of transportation and upon the agent making one of the three findings enumerated in subparagraph (1) below:

- (1) *Findings:*

- a. Such an extension would cause or contribute to a safety deficiency which could not be corrected in a practical or economically efficient manner as determined by the agent. In such cases, the subdivider shall be responsible for providing sufficient right-of-way and constructing within said right-of-way a permanent turnaround acceptable to the department of transportation to end the existing street.

- b. The street right-of-way in the existing subdivision, although platted, has not had a street constructed within it, is not contained in the comprehensive plan, and it is unlikely that, in the foreseeable future, such a street will be so constructed. In such cases, the subdivider shall not be responsible for providing a turnaround acceptable to the department of transportation.
 - c. The existence of significant environmental conditions such as tidal or upland wetlands or severe slopes that, in the opinion of the subdivision agent, were not known or adequately considered at the time the potential extension was platted. The need for the installation of a permanent turnaround by the subdivider shall be determined by the agent on a case-by-case basis based on local site conditions.
- (2) A traffic operations and safety analysis of all connections shall be performed by a transportation planner or engineer or other professional qualified to perform such analyses. Such analyses shall be used by the agent in determining whether to require interconnection and, if so, whether traffic-calming measures should be included in the design, or whether to grant a waiver. The traffic operations and safety analysis shall be submitted by the developer with the preliminary subdivision plan.
- (3) Upon review of the proposed subdivision plan and relevant traffic operations and safety analyses, the agent shall render a decision concerning whether to require interconnection, to require interconnection with traffic-calming measures, or to grant a waiver from the interconnection requirement. If the agent decides to require interconnection and if the subdivision street(s) to which the connection would be made pre-dates the notice requirements specified in subsections (b)(1), (2) and (3) above, the agent shall, prior to approval of the Preliminary Plan, provide written notice of the decision to the developer and to the owners of record of parcels fronting on the road right-of-way to be extended and to any duly constituted property owners association representing adjacent lots or parcels. The notice shall state the location and times at which the plans and relevant traffic analyses may be examined. Inadvertent failure to provide such notice to one or more property owners shall not invalidate any aspect of the subdivision process.
- (4) No waiver may be granted if, by the granting of said waiver, any other provision of this chapter or the zoning ordinance would be violated, including specifically the requirement for two points of access required by section 20.5-92(e) of this chapter.
- (5) The decision of the Agent with respect to requiring interconnection and granting or not granting a waiver may be appealed by any person or persons individually or severally aggrieved to the planning commission within fifteen (15) days of notice of the decision having been mailed to the parties referenced above. The inadvertent failure to notify one or more property owners shall not extend the time frame for appeal. The commission, after conducting a public hearing advertised in accordance with the terms of section 15.2-2204, Code of Virginia, and upon reaching one of the findings enumerated in subsection (1) above, may affirm or overturn the decision of the agent and may impose reasonable conditions as a part of its decision. The fifteen-day time limit notwithstanding, the developer of a subdivision may appeal to the planning commission at any time during the course of development of the project.
- (6) In situations where the agent or the planning commission grants a waiver to the street interconnection requirement, an alternative means for bicycle and pedestrian access may be required to be provided in close proximity to the otherwise required street based on local site conditions. Such bicycle and pedestrian facilities shall be either within an existing right-of-way or in a separate right-of-

way and shall be designed and constructed in accordance with Figure VI-B in appendix A or with the standards used by the Virginia Department of Transportation for such facilities. Where the facility is designed to include the 16-foot wide base depicted in that figure, it will be deemed to satisfy the two points of emergency access required by section 20.5-92(e).

- (d) Street intersections shall be spaced and designed in accordance with the standards set forth in the Virginia Department of Transportation Subdivision Street Design Guide, dated January 1, 2005, and as may be amended from time to time.
- (e) All subdivisions of twenty-five (25) or more lots shall have two (2) means of ingress and egress. A boulevard type of street design providing a minimum ten-foot (10') wide median between lanes or other design generally achieving the same purpose may be accepted by the Agent, with the concurrence of the Department of Fire and Life Safety, as satisfying this requirement when the provision of two (2) separate means of ingress and egress is determined to be difficult or undesirable. Such boulevard type streets shall extend as far into the subdivision as the first cross street which provides an alternate circulation route. Median breaks shall be provided at street intersections and at other appropriate locations to ensure good traffic circulation and delivery of emergency services. Street trees shall be planted in the medians of boulevard-type streets at a minimum interval of one (1) tree for each forty feet (40') of median length.

Sec. 20.5-93. Rights-of-way.

- (a) Where a subdivision abuts an existing public right-of-way which has a width deficiency created either because it is less than fifty feet (50') in width or because adopted plans show that a greater width will be necessary to accommodate those plans, the subdivider shall be required to dedicate additional rights-of-way as follows:
 - (1) Where the subdivision abuts one (1) side of the right-of-way, the subdivider shall dedicate one-half (1/2) of the right-of-way deficiency along the frontage of the subdivision.
 - (2) Where the subdivision abuts both sides of the right-of-way, the subdivider shall dedicate all of the right-of-way deficiency along the frontages of the subdivision.
- (b) Where the subdivision embraces any part of an arterial or collector street or thoroughfare shown on an approved Comprehensive Plan, official map, or state or regional transportation plan, such street or thoroughfare shall be platted for dedication in the location and width indicated on such plan or map or as deemed necessary by the Virginia Department of Transportation (VDOT) and, except in the case of a limited or controlled access facility, shall be constructed and integrated as a part of the subdivision.
- (c) The minimum right-of-way width shall be fifty (50) feet, or such greater width as may be specified by the Virginia Department of Transportation Subdivision Street Design Guide based on its functional classification

Sec. 20.5-94. Geometric standards.

- (a) All streets shall have a continuity of design throughout their entire length. Multiple or step-down designs shall not be permitted except that a transition may be permitted at a four-way intersection or other major traffic generator which would constitute a clear demarcation of such change.
- (b) Geometric standards for streets without curb and gutter shall be as set forth in the VDOT Subdivision Street Design Guide, dated January 1, 2005 and as may be amended from time to time.

- (c) Geometric standards for streets with curb and gutter shall be as set forth in the VDOT Subdivision Street Design Guide, dated January 1, 2005 and as may be amended from time to time.

Sec. 20.5-97. Cul-de-sac streets.

- (a) Cul-de-sac streets shall generally not exceed six hundred feet (600') in length. The length shall be measured from the end of the cul-de-sac to the closest intersection which provides a means of egress from the subdivision, either directly or indirectly. Where the agent determines that the topography, property configuration or other physical constraints are such that a cul-de-sac of greater length is required or desirable for the effective and efficient development of the property, the agent may authorize cul-de-sacs which exceed six hundred feet (600') in length. In such cases, the cul-de-sac street shall generally be designed with a landscaped median which divides the cul-de-sac street into (2) two distinct and separate lanes. Such street may, however, be continuously undivided for the final six hundred feet (600') measured from the end of the turnaround. Median breaks shall be provided at street intersections and at other appropriate locations along the street to ensure good traffic circulation and the delivery of emergency services. In general, this means that median breaks should occur approximately at three hundred foot (300') intervals. In consultation with the department of fire and life safety, the agent may waive or modify the median requirement if it is determined that such a design will not aid emergency access and operations.
- (b) In recognition of the additional fire protection requirements incorporated into commercial and industrial structures, the agent, in consultation with the department of public safety, may waive the median requirement for cul-de-sac streets in subdivisions located in commercial or industrial districts.
- (c) Cul-de-sac streets shall be terminated by a turnaround having a minimum pavement radius of forty-five feet (45').

Sec. 20.5-99. Alleys.

In certain situations, the use of alleys may be a desirable alternative to the more traditional type of residential development. Alleys may be permitted in residential planned developments, cluster development, or similar residential subdivisions where average lot widths are less than seventy feet (70'), however, the following conditions shall apply:

- (a) Frontage on an alley shall not be construed to satisfy any lot frontage requirements.
- (b) Alleys shall be maintained and perpetuated by a duly constituted property owners' association and notations to this effect, including a note that such alleys will not be eligible for acceptance and maintenance by the Virginia Department of Transportation, shall be clearly indicated on the face of the record plat.
- (c) Alleys shall have a minimum right-of-way width of sixteen feet (16'), a minimum pavement width of twelve feet (12') and a maximum length of five hundred feet (500').
- (d) Alleys shall be designed to minimize or eliminate the potential for through traffic.
- (e) Alleys shall intersect only access or subcollector streets.
- (f) If curb and gutter is used, it shall be of a roll-top type design.
- (g) All structures, including garages and fences shall be set back a minimum of ten feet (10') from the edge of the alley right-of-way. Alleys shall not be considered streets or roads for the purpose of front yard setback requirements.

- (h) Where alleys are proposed to terminate in a cul-de-sac, either a circular or a "T" or "Branch" turnaround shall be provided with a minimum outside turning radius of thirty feet (30').

Sec. 20.5-101. Sight distance triangles.

- (a) Sight triangles shall be required at all street intersections. Such sight triangles shall include the area on each corner that is bounded by the corner radius formed by the right-of-way/property line and a line connecting the property monuments at the two ends of the corner radius.
- (b) Signs, plantings, structures or other obstructions which obscure or impede sight lines between three feet (3') and six feet (6') in height above grade shall be prohibited within the sight triangle.
- (c) The sight triangle shall be clearly shown and its purposes noted on the final plat.
- (d) A right-of-entry for the purpose of removing any object, material or other obstruction that hinders the clear sight across the area shall be dedicated to the county and the Virginia Department of Transportation.
- (e) In the event the sight distance standards specified by the VDOT Subdivision Street Design Guide are more restrictive than the requirements of this ordinance, then the VDOT standards shall be observed.

Sec. 20.5-102. Private streets.

Private streets may be authorized by the agent in accordance with the applicable provisions of the zoning ordinance as it applies to planned developments, cluster subdivisions, and attached residential development and shopping centers. Where authorized, private streets shall conform with the following requirements:

- (a) The streets shall be designed to meet or exceed the geometric standards specified by the VDOT Subdivision Street Design Guide, provided however that the agent may approve minor deviations where the resulting design is clearly equal to or superior to that which would otherwise result.
- (b) The streets shall be designed to meet or exceed the construction standards specified by the VDOT Subdivision Street Design Guide, provided however that where unique or nonstandard surface treatments are proposed, the agent may approve deviation from the standards provided that the subdivider provides evidence, certified by a professional engineer, that the proposed alternative will have the same or reduced maintenance requirements as would the otherwise required surface treatment.
- (c) A duly constituted property owners' association shall be vested with ownership of and maintenance responsibility for private streets at the time of recordation.
- (d) As provided by section 15.2-2242-3, Code of Virginia, each plat on which such a private street is shown shall contain, in addition to all other required notations and certifications, the following notation prominently displayed in, at minimum, twelve (12) point lettering:

*THE STREET(S) SHOWN HEREON IS/ARE PRIVATE, MAY NOT MEET
STATE STANDARDS, AND WILL NOT BE MAINTAINED BY EITHER THE
COMMONWEALTH OF VIRGINIA OR THE COUNTY OF YORK. MAINTENANCE
OF THE ROAD(S) AND RIGHT(S)-OF-WAY SHOWN HEREON*

IS/ARE THE RESPONSIBILITY OF THE PROPERTY OWNERS ASSOCIATION FOR THE LOTS CREATED BY THIS PLAT.

Grantors of any subdivision lot to which the above statement applies must include the statement on each subsequent deed of conveyance thereof.

- (e) The subdivider shall be required to guarantee and post surety for the construction of any private streets authorized herein.
- (f) Private streets shall be inspected at the expense of the subdivider both during and after construction by an independent testing and engineering firm to ensure that the road design and construction meets or exceeds the standards of the department of transportation for public roads of the same class and volume. Certification to this effect by an engineer licensed in Virginia shall be submitted to the agent together with relevant logs and reports prior to the issuance of a certificate of occupancy for any structure having its sole access from a private street.

Sec. 20.5-109. Surety in lieu of completion.

- (a) Where the subdivider wishes to record the record plat, but physical improvements and installations, including public and private streets, shown on the approved development plan and/or final plat have not been made, in whole or in part, the subdivider may, in accordance with section 15.2-2241(A)(5), Code of Virginia, enter into a subdivision agreement (as described above) with the county and submit performance surety in an amount sufficient for and conditioned upon the satisfactory construction or completion of said improvements or installations. Such physical improvements and installations shall include, but not be limited to, any street; curb; gutter; sidewalk; bicycle trail; drainage or sewerage system; waterline as part of a public system; other improvement intended for dedication to public use to be maintained by the county, the Commonwealth, some other public agency or a property owners' association; site-related improvements required by this or other chapters of this Code for vehicular ingress or egress; public access streets; structures necessary to ensure the stability of slopes; and stormwater management facilities. The amount of surety shall be acceptable to the agent and shall cover the full estimated cost of said improvements plus a reasonable allowance for administration, overhead, inflation and potential damage to existing improvements.

- (d) Performance surety shall be released in accordance with the provisions of section 15.2-2245 of the Code of Virginia, provided, however that "written notice of completion" shall consist of a set of "as-built" plans, a certificate of completion by a duly licensed engineer or surveyor, and a completed application form or letter to the agent requesting reduction or release of surety.

Sec. 20.5-116. Applicability and intent.

- (a) It is the intent of the county that the transportation and water quality impacts of certain development proposals be evaluated during the review process and, where such impacts are negative, that they be ameliorated to the extent possible.
- (b) The subdivider of any subdivision containing, or based on the existing zoning classification potentially containing fifty (50) or more lots shall prepare and submit to the agent a traffic impact analysis detailing the traffic impacts of the proposed subdivision, as defined in section 20.5-117.

- (c) The subdivider of any subdivision which will involve development activity within a resource protection area as determined by the Natural Resources Inventory shall submit a water quality impact analysis in accordance with Chapter 23.2 which shall identify the impacts of the proposed subdivision and subsequent development thereon on water quality, the buffer and the lands in the resource protection area.

Sec. 20.5.118. Water quality impact assessments and impact studies.

- (1) For subdivisions of land in Chesapeake Bay Preservation Areas, a Water Quality Impact Assessment shall be required at the time of preliminary plan submission. The water quality impact assessment shall be prepared in accordance with Chapter 23.2.
- (2) For subdivisions of land in Watershed Management and Protection Areas, an impact study prepared in accordance with Section 24.1-376 of the Zoning Ordinance is required.

Sec. 20.5-119. Review of analysis.

The Agent shall review, or transmit to appropriate departments or agencies for review, all submitted impact analyses, water quality impact assessments and impact studies. Such analyses, assessments and studies shall form the basis for recommendations to or requirements of the subdivider for the appropriate design of potential mitigation efforts.

Sec. 20.5-126. Commercial and industrial subdivisions.

Commercial subdivisions and industrial subdivisions shall comply with all of the requirements of this chapter, provided, however, that the agent may, upon a determination that the public interest is equally well served, waive or modify the following requirements:

- (a) The requirement that each lot created front on a public street or roadway provided that a notation to this effect shall be clearly shown on the final plat.
- (b) The requirement that through lots have access to only the roadway with the lesser traffic volume, provided, however, that the agent may require that access to the road with the lesser traffic volume be restricted or prohibited.
- (c) The requirement that new electric utility service be placed underground in industrial subdivisions provided, however, that this shall apply only to three-phase electrical service in industrial subdivisions in which unscreened outdoor storage is permitted. In granting such a waiver or modification, the agent shall review and determine the appropriate location for such overhead utility placement. Nothing in this subsection shall be interpreted to waive or modify any requirement of the zoning ordinance with respect to the location of on-site utilities.

Sec. 20.5-128. Appeals and variances.

- (a) The county board of zoning and subdivision appeals shall hear and decide appeals and applications for variances from the terms or administration of this chapter.
- (b) The board of zoning and subdivision appeals shall have the following powers and duties with respect to the subdivision ordinance:

- (1) To hear and decide appeals from any order, requirement, decision or determination made by the agent or other administrative officer in the administration and enforcement of this chapter, provided however, that the subdivider may appeal the failure of the agent to approve or disapprove a plan or plat within the timeframes contained herein or the disapproval by the agent of such a plan or plat directly to the circuit court in accordance with section 15.2-2259, Code of Virginia.

- (e) Applications for variances may be filed with the secretary of the board of zoning and subdivision appeals by any subdivider. Such application and accompanying maps, plans or other information shall be promptly transmitted to the board of zoning and subdivision appeals and placed on the docket to be acted upon after public notice and hearing in accordance with section 15.2-2204 of the Code of Virginia. A copy of the application and accompanying documentation shall be transmitted to the planning commission which may send a recommendation or appear as a party at the hearing.
- (f) The board of zoning and subdivision appeals shall fix a reasonable time for the hearing of an application for a variance or an appeal, but in no case shall it be heard more than seventy-five (75) days after a complete application, including fees, is filed with the secretary. Applications shall be decided no more than ninety (90) days from the date the complete application was filed.

Sec. 20.5-129. Appeals from decisions of the board.

Any person or persons individually or severally aggrieved by any decision of the board of zoning and subdivision appeals with respect to this chapter, or any taxpayer or any officers, department, board or bureau of the county may present to the circuit court of the county, within thirty (30) days after the rendering of said decision by the board of zoning and subdivision appeals, a petition specifying the grounds on which aggrieved and the relief sought. The court shall review and decide on such petition in accordance with the provisions of section 15.2-2314, Code of Virginia.

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Modify FIGURE VI-A to eliminate table containing specific dimensions and to simply depict the concept of a "sight distance triangle"

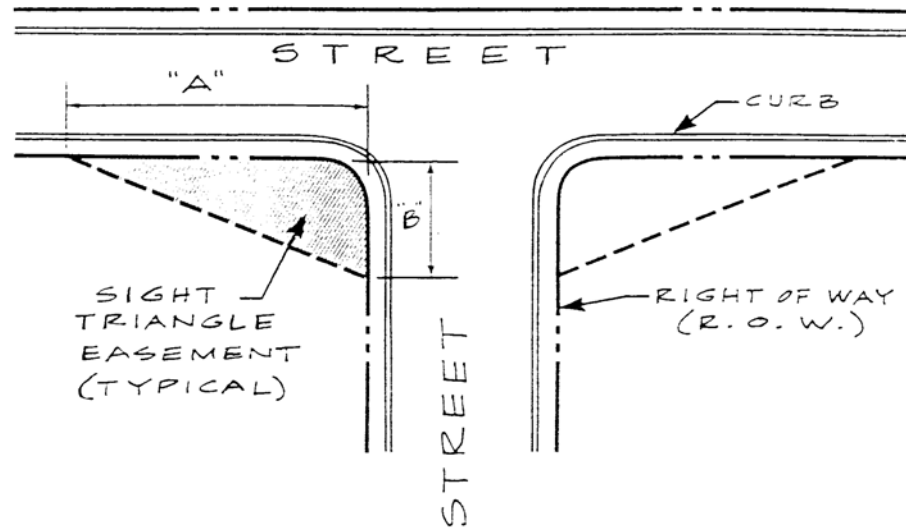
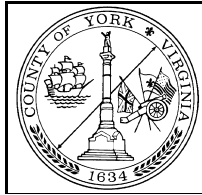


FIGURE VI-A SIGHT TRIANGLES

(DELETED TABLE VI – 1)

APPENDIX B
COUNTY OF YORK



SUBDIVISION AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 20____, by and between

(list full legal names of all owners of record, state of incorporation if incorporated, type of partnership if a partnership, or marital status if individual) hereinafter referred to as the "Owner," and the COUNTY OF YORK, Virginia, a political subdivision of the Commonwealth of Virginia, hereinafter referred to as the "County":

WITNESSETH:

WHEREAS, the Owner owns a certain parcel of land located in the County, hereinafter referred to as the "Property," having acquired the same by instrument(s) of record in the Clerk's Office of the Circuit Court of York County, Virginia, in Deed Book(s) ____, page(s) ____; and

WHEREAS, the Property is being subdivided by the Owner into the subdivision known as "_____" and the Owner has caused a plat of subdivision, dated _____, 20____, to be prepared by _____, which plat the Owner desires to admit to record in the Clerk's Office of the Circuit Court for the County of York, Virginia, hereinafter referred to as the "Plat"; and

WHEREAS, the Owner agrees to construct on or before the _____ day of _____, 20____, all physical improvements, hereinafter referred to as the "Improvements", shown on the development plans labeled "_____" dated _____, and approved by the County on _____, and such other plans and specifications for development of the subdivision approved by the County, all of which documents are on file in the County's Department of Environmental and Development Services, are incorporated by reference, and are hereinafter collectively referred to as the "Plans"; and

WHEREAS, the Owner has submitted to the County herewith (circle one of the following) sufficient letter of credit, cash, or a certified check, in the amount of \$_____, hereinafter referred to as the "Surety," securing the timely construction and completion of the Improvements and performance of the terms and conditions of this Agreement; and

WHEREAS, the County has agreed that it will approve the final plat of said subdivision and authorize its recordation upon the execution of this Agreement.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That for and in consideration of the premises and the covenants and agreements herein contained, the parties hereto agree as follows:

1. The County agrees that, upon proper execution of this Agreement by the Owner and receipt of the Surety and receipt of the deeds described in Paragraph 8 below, it will approve the Plat for recordation. If the Surety is a letter of credit, it must be in the form attached as Exhibit A and completed in conformance with the instructions at-

tached thereto, approved by the County Attorney as to form, content and issuing institution, and acceptable as to amount, effective period, and otherwise to the County Administrator. Letters of credit shall be in effect for a minimum period of sixty (60) days beyond the date for completion of the Improvements.

2. The Owner agrees that the Owner will, without cost to the County, on or before the _____ day of _____, 20____, construct and complete the Improvements to the satisfaction of and to the standards and specifications of the County and all other governmental agencies or authorities having jurisdiction over the Improvements, including, but without limitation, the Virginia Department of Transportation.
3. The County may enter upon the Property to complete the Improvements and may draw on the Surety in the following events:
 - a. The Owner fails to complete the Improvements by the date specified in paragraph 2 above.
 - b. The Owner fails to complete by the date specified in paragraph 2 above the Improvements to the satisfaction of and to the standards and specifications of the County and all other governmental agencies or authorities having jurisdiction over the Improvements, including but without limitation, the Virginia Department of Transportation.
 - c. The Owner fails to commence construction of the Improvements at least ____ days prior to the date specified in paragraph 2 above.
 - d. The insolvency of, appointment of a receiver for, or the filing of a voluntary or involuntary petition in bankruptcy against or by the Owner.
 - e. The commencement of a foreclosure proceeding of a lien against the Property or its conveyance in lieu of foreclosure.
 - f. Owner breaches any of the terms and conditions of this Agreement.
4. In the event that the County draws on the Surety, it may use such funds to complete the Improvements or cause them to be completed. The Owner shall be liable to the County for any and all costs of completing the Improvements which shall be in excess of the Surety. It is the purpose and intent of the parties that the amount of the Surety shall have been determined to be sufficient to defray not only the anticipated cost of completing or having completed the Improvements but also unanticipated cost overruns, the cost incurred by the County in drawing on the Surety, an administrative fee in the amount of \$5,000.00, or five (5) percent of the amount of the cost of completing the Improvements, whichever sum is greater, and any and all other reasonable costs which the County has incurred or may conclude, in its sole discretion, are to be incurred. The Owner hereby acknowledges that an administrative fee in the above amount is reasonable compensation to the County for its costs in drawing on the Surety and, when necessary, causing the Improvements to be completed. The Owner acknowledges and agrees that the County is under no obligation to give any notice to the Owner of its intent to draw on the Surety in any of the events specified in this Agreement.
5. The County shall, upon drawing on the Surety, deposit the same in an interest-bearing account to the extent not needed to cover expenditures made or reasonably anticipated to be made in the near future, but the County shall have no responsibility to deposit or maintain any of such funds in an account at the maximum interest available. Upon completion of the Improvements, as determined by the County, and payment of all expenses incurred by the County in connection therewith, any unexpended funds, including any interest earned thereon, shall be returned to the Owner.
6. The County shall not be liable to the Owner or to any third party for the manner in which the Improvements are completed, any delay in effecting completion, the fact that the cost of completion is in excess of or less than the amount made available by drawing on the Surety or any part thereof, or that the County has drawn down the entire amount of the Surety even though it subsequently develops that the entire amount was not required to carry out the provisions of this Agreement.
7. The Owner acknowledges that the County is under no obligation to extend the time herein provided for completion of the Improvements by the Owner. However, in the event that the County unilaterally agrees in writing to do so, such writing shall, without more and without formal execution of any other agreement by the parties, constitute such an extension, and all of the terms of this Agreement shall continue in effect for the duration of such extension insofar as they are not inconsistent with the terms of the extension; provided, however, that no extension shall be effective until or unless the Owner furnishes to the County a new or amended Surety acceptable to the County if requested by the County. The County may require that the amount of the Surety be increased if an extension is permitted.

8. The Owner agrees to execute and to deliver to the County a deed of easement, approved as to form by the County Attorney, conveying to the County those easements identified on the Plat as easements running to the County. The Owner also agrees to execute and to deliver to the County a deed, approved as to form by the County Attorney, conveying fee simple title, with general warranty, to the County those areas, such as pump station sites or well lots, that are to be conveyed to the County, and to provide the County at Owners' expense an owner's title insurance policy issued by a company acceptable to the County Attorney, containing no exceptions as to title which are not acceptable to the County Attorney, and in such amount as may be determined reasonable and appropriate by the County Administrator.
9. It is mutually understood and agreed that if the Owner shall faithfully execute all requirements of this Agreement and all relevant laws and regulations, and shall indemnify, protect and save the County, its officers, agents and employees harmless from all loss, damage, expense or cost by reason of any claim made or suit or action instituted against the County, its officers, agents or employees on account of or in consequence of any breach on the part of the Owner, all of which the Owner hereby covenants to do, then the aforementioned Surety shall be released by the County to the Owner; provided, however, that release of the Surety shall not in any way or to any extent release, diminish or otherwise reduce any obligation or liability of the Owner provided in this Agreement.
10. The Owner does further hereby agree to indemnify, protect and save the County, its officers, agents, and employees harmless from and against all losses and physical damages to property, and bodily injury or death to any person or persons, which may arise out of or be caused by the construction, maintenance, presence or use of the streets, utilities and public easements required by, and shown on, the Plans and the Plat until such time as the said streets, utilities and public easements shall be accepted as a part of the County's systems, or those of its agencies, or the State System of Secondary Highways, as the case may be.
11. It is mutually understood and agreed that approval of the Plat shall not, by such approval alone, be deemed to be an acceptance by the County or other applicable agency of any street, alley, public space, sewer or other physical improvements shown on the Plat or the Plans for maintenance, repair or operation thereof, and that the Owner shall be fully responsible therefor and assume all of the risks and liabilities therefor, until such time as the County or other applicable agency has formally accepted them.
12. Upon completion of the Improvements, other than public roads, the Owner shall apply to the Subdivision Agent for final inspection of them and approval for acceptance. After approval of the Improvements by the Agent, Surety shall be maintained for an additional period of one year in the amount of five (5) percent of the cost of the Improvements, other than public roads or any other Improvement for which the materials or workmanship are otherwise guaranteed for a period of at least one year. During this one year period, Owner shall correct any defects in materials or workmanship in the installation of the Improvements. In the event Owner fails to do so after being requested to do so by the County, the County may draw on the Surety in order to affect such corrections.
13. The Owner shall, with regard to any Improvement to be conveyed to the County or any agency thereof:
 - a. When requested by the County, furnish the County permanent, blackline, reproducible "as built" drawings of such Improvement on 0.003 inch polyester film, in a form satisfactory to the County; and
 - b. Notify the Subdivision Agent prior to the conduct of any required test or final inspections of the Improvement; and
 - c. Furnish, through Owner's engineer, test reports prepared by an independent testing laboratory in accordance with the ACI Code for any structural concrete installed in the subdivision, and furnish a manufacturer's certification that all pipe installed in the subdivision meets applicable ASTM specifications; and
 - d. Be responsible for and bear all costs imposed upon the County by the Virginia Department of Transportation for inspections and/or testing of any roadway, drainageway or other facility shown on the Plans to be accepted by such Department.
14. The Owner warrants that there are no deeds of trust of record pertaining to the Property other than the ones identified below:

<u>Deed of Trust</u>	<u>Amount of Note Holder</u>	<u>Date of Deed of Trust</u>	<u>List all Trustees</u>	<u>Deed Book, Page</u>
----------------------	----------------------------------	----------------------------------	------------------------------	----------------------------

- 1.
- 2.
- 3.

December 20, 2005

15. The Owner shall be entitled to periodic partial and final complete release of the Surety pursuant to and if Owner complies with provisions of § 15.2-2245, Code of Virginia (1950), as amended, and, in, the case of a partial release, furnishes the County with new Surety in the reduced amount, in the case of a bond.
16. This Agreement shall be binding upon the Owner and the Owner's successors and assigns.
17. Owner agrees, upon notification in writing by the County at any time after recordation of the Plat, that if an error has been discovered in such Plat, to record, at Owner's expense, an amended or corrected Plat, or other document acceptable to the County, to correct the error.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures and seals:

OWNER:

INDIVIDUAL OR INDIVIDUALS

_____(SEAL)

_____(SEAL)

CORPORATION

Attest:

By: _____(SEAL)

President (attach copy of corporate
resolution authorizing execution)

Secretary

PARTNERSHIP

By: _____(SEAL)

General Partner

Approved as to form:

County Attorney

COUNTY OF YORK, Virginia

By: _____
County Administrator

December 20, 2005

COMMONWEALTH OF VIRGINIA

County of York, to-wit:

I, _____, a Notary Public for the Commonwealth of Virginia at large, do hereby certify that _____, whose name as the Owner of the Secondary Parcel(s) is signed to the foregoing agreement bearing the date of the ____ day of _____, 20____, has acknowledged the same before me in the jurisdiction aforesaid.

Given under my hand the ____ day of _____, 20____.

Notary Public

My commission expires: _____

(PUT ON BANK LETTERHEAD)

IRREVOCABLE LETTER OF CREDIT NO. (1)

_____ (2) _____

County of York
c/o Mr. James O. McReynolds
County Administrator
P. O. Box 532
Yorktown, Virginia 23690

Re: _____ (3) _____

(13) _____

Gentlemen:

We hereby establish our Irrevocable Letter of Credit No. __ (1) __ in your favor, for the account of _____ (3) _____, available by your drafts drawn at sight on us up to the aggregate amount of _____ (4) _____, each such draft accompanied by the following document:

Your written statement certifying that _____ (3) _____ has defaulted in the performance of the terms and conditions of _____ (5) _____ Agreement with you, dated the __ (6) __ day of __ (6) __, 19 __ (6) __, and that you are, in consequence, entitled to the amount of the accompanying draft.

All drafts drawn under this letter of credit must be marked "Drawn under __ (7) __ Letter of Credit No. __ (1) __ dated __ (2) __."

This credit is valid until _____ (8) _____ and drafts drawn hereunder, if accompanied by document as specified above, will be honored if presented on or before that date to _____ (9) _____ at _____ (10) _____ or, if said bank is not doing business at that address, then to any other address or location of said bank or its successor.

Except as otherwise expressly stated herein, this credit is subject to the "Uniform Customs and Practice for Documentary Credits," fixed by International Chamber of Commerce Publication No. 400, 1983 revision.

Very truly yours,

_____ (7) _____

By: _____ (11) _____

_____ (12) _____

- (1) Number assigned to letter of credit by bank.
- (2) Date issued.
- (3) Name of person, corporation, or partnership submitting letter of credit.
- (4) Amount of letter of credit written in words and numerals; i.e., fifty thousand and no/100 dollars (\$50,000.00).
- (5) Insert "his," "her," "its" or "their," as appropriate.
- (6) Date shown on agreement.
- (7) Name of bank.
- (8) Expiration date of letter of credit.

- (9) Name and address of bank.
- (10) Address of bank or branch thereof where letter of credit is to be presented. No letter of credit will be acceptable unless it may be presented at a bank office in York County, Gloucester County or James City County or in the City of Newport News, Hampton, Poquoson, Williamsburg, Norfolk, Virginia Beach, Chesapeake, or Richmond.
- (11) Signature of authorized officer of bank.
- (12) Title of authorized officer of bank.
- (13) Name of project.

On roll call the vote was:

Yea: (5) Noll, Bowman, Shepperd, Zaremba, Burgett
Nay: (0)

UNFINISHED BUSINESS

EXEMPTION FROM REAL AND PERSONAL PROPERTY TAXATION: QUEENS LAKE COMMUNITY ASSOCIATION, INC.

Mrs. Marycarol White, Director of Financial and Management Services, gave a brief explanation of why the ordinance was previously tabled, indicating the Board had received further information in answer to their previous questions, and the amended ordinance before the Board would grant exemption from real and personal property taxation to the Queens Lake Community Association, Inc.

Mr. Barnett noted that the matter brought up a legal issue. He noted that since Queens Lake first applied, there has been a statute change that they feel now automatically exempts them. Mr. Barnett indicated he did not agree and wanted to make the Board aware of it. He stated the change states that common open space is exempt from taxation, but no other local attorney could tell him what the General Assembly meant. If Queens Lake provides its property to use by the general public, then it is exempt, but it was his understanding that some of Queens Lake's property was not made available to the general public.

Discussion followed regarding the request for exemption and the change in the statutes governing exemptions made by the 2005 General Assembly and whether or not it applies in the case of Queens Lake, making it automatically exempt from real and personal property taxation. The Board members also discussed whether or not they felt the property of Queens Lake Community Association, Inc., was available for public use.

Mr. Bowman asked if the Board could revisit the situation on a regular basis to determine if property usage has changed if this exemption is approved.

Mrs. White stated that she could not speak to the frequency of the review, but the statute states the exemption is good only as long as the property remains used for the purposes for which the exemption was granted. If not, it goes back to a taxable organization. She noted that the Commissioner of the Revenue would be the office that conducts the review.

Mr. Barnett indicated he would do some research to see if such a provision for establishing a standard timeframe for reviews could be adopted. He explained that the Circuit Court would be where an organization would go if the Board denied a request and the organization felt the Board was wrong in doing so.

Mr. Zaremba moved the adoption of proposed Ordinance No. 05-14(R) that reads:

AN ORDINANCE GRANTING EXEMPTION FROM REAL AND PERSONAL PROPERTY TAXATION PURSUANT TO CODE OF VIRGINIA SECTION 58.1-3651 TO THE QUEENS LAKE COMMUNITY ASSOCIATION, INC., A VIRGINIA NON-PROFIT CORPORATION

WHEREAS, the Queens Lake Community Association, Inc., has forwarded to the Board a request for real and personal property tax exemption; and

WHEREAS, §58.1-3651 of the Code of Virginia addresses such exemptions and requires that the local governing body advertise and conduct a public hearing and consider a series of questions prior to adopting an ordinance supporting the requested exemption; and

WHEREAS, the required public hearing has been advertised and conducted and the Board of Supervisors has duly examined and considered the questions contained in §58.1-3651(B) of the Code of Virginia;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 20th day of December 20, 2005, that Queens Lake Community Association, Inc., shall be exempt from real and personal property taxation by designation effective January 1, 2005;

BE IT FURTHER ORDAINED that it is recommended that the property of the Queens Lake Community Association, Inc., be classified as property used for public park and playground activities in accordance with those tax exemption categories set out in Code of Virginia § 58.1-3651;

BE IT STILL FURTHER ORDAINED that continuance of the property tax exemption shall be contingent on the continued use of the properties for public park and playground activities in accordance with the purpose for which the exemption is granted.

BE IT STILL FURTHER ORDAINED that property taxes assessed to and paid by the Queens Lake Community Association, Inc., during 2005 in the amount of \$8,369.58 be abated and refunded.

On roll call the vote was:

Yea:	(3)	Bowman, Zaremba, Burgett
Nay:	(2)	Noll, Shepperd

CONSENT CALENDAR

Mrs. Noll moved that the Consent Calendar be approved as submitted, Item Nos. 7, 8, and 9, respectively.

On roll call the vote was:

Yea:	(5)	Shepperd, Zaremba, Noll, Bowman, Burgett
Nay:	(0)	

Thereupon, the following minutes were approved and resolutions adopted:

Item No. 7. APPROVAL OF MINUTES

The minutes of the following meetings of the York County Board of Supervisors were approved:

November 15, 2005, Regular Meeting
November 22, 2005, Adjourned Meeting

Item No. 8. PURCHASE AUTHORIZATION: Resolution R05-205

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO COMPLETE THE CONSTRUCTION OF THE CHEADLE LOOP WATER PROJECT, SIGN A CONTRACT FOR JANITORIAL/CUSTODIAL SERVICES FOR COUNTY BUILDINGS AND APPROVE THE INSTALLATION OF WAYFINDING SIGNS AS PART OF THE "HISTORIC TRIANGLE WAYFINDING GROUP"

WHEREAS, it is the policy of the Board of Supervisors that all procurements of goods and services by the County involving the expenditure of \$30,000 or more be submitted to the Board for its review and approval; and

WHEREAS, the County Administrator has determined that the following procurements are necessary and desirable, they involve the expenditure of \$30,000 or more, and that all applicable laws, ordinances, and regulations have been complied with;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 20th day of December, 2005, that the County Administrator be, and hereby is, authorized to execute procurement arrangements for the following:

	<u>AMOUNT</u>
Cheadle Loop Water Project	\$ 99,485
Janitorial/Services Custodial (first-year)	431,321
Wayfinding Signs (not to exceed)	110,000

Item No. 9. COMMENDATION OF COMPREHENSIVE PLAN REVIEW STEERING COMMITTEE: Resolution R05-211

A RESOLUTION TO THANK AND COMMEND THE MEMBERS OF THE YORK COUNTY COMPREHENSIVE PLAN REVIEW STEERING COMMITTEE

WHEREAS, the Comprehensive Plan Review Steering Committee, consisting entirely of citizen volunteers, was appointed by the York County Board of Supervisors and the York County Planning Commission in June 2004; and

WHEREAS, the Comprehensive Plan Review Steering Committee subsequently embarked on a detailed and thorough review process that began on July 22, 2004 and ended on July 20, 2005; and

WHEREAS, during this period the Steering Committee met 24 times and conducted 15 Neighborhood Open Houses throughout the County, dedicating a cumulative total of over 500 volunteer hours to the review of the Comprehensive Plan; and

WHEREAS, the Committee's work culminated in the Board's adoption on December 6, 2005 of an updated Comprehensive Plan that will help the County's present and future leaders effectively plot the County's course for the future; and

WHEREAS, the Steering Committee has completed the tasks that were set before it; and

WHEREAS, the Board of Supervisors wishes to express its thanks and appreciation to the citizen volunteers who collectively gave over 500 hours of time in service to the County;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 20th day of December, 2005, that it does hereby sincerely thank and commend the following individuals for outstanding service to the current and future citizens of York County as members of the Comprehensive Plan Review Steering Committee:

Nicholas F. Barba, Chairman
 Kenneth L. Bowman
 John B. Christie
 John R. Davis
 Carole A. Ferro
 Alexander T. Hamilton

Ronald Kurz
 Carl Loveland
 Mark A. Medford
 R. Anderson Moberg
 Alfred E. Ptaszniak, Jr.
 Ralph A. Smith

NEW BUSINESS

APPLICATION NO. UP-690-05, OSPREY PROPERTIES

Mr. Carter gave a brief presentation on the applicant's request for a two-year extension of the deadline for a previously approved senior housing independent living facility.

Mrs. Noll moved the adoption of proposed Resolution R05-202 that reads:

A RESOLUTION TO APPROVE A TWO-YEAR EXTENSION OF THE DEADLINE FOR A PREVIOUSLY APPROVED SENIOR HOUSING INDEPENDENT LIVING FACILITY

WHEREAS, Osprey Property Company submitted Application No. UP 629-04, pursuant to Section 24.1-306 (Category 1, No. 9(b)) of the York County Zoning Ordinance, which requested a Special Use Permit to establish a senior housing independent living facility on property located at 236 Commons Way and further identified as Assessor's Parcel No. 9-9-2 (GPIN# D15c-1545-1450); and

WHEREAS, on February 17, 2004, the York County Board of Supervisors approved said application through the adoption of Resolution No. R04-28; and

WHEREAS, pursuant to Section 24.1-115(c)(1) of the York County Zoning Ordinance, use permits automatically expire two years after adoption if the special use has not been established; and

WHEREAS, Osprey Property Company has submitted Application No. UP 690-05, which requests that the above-referenced Special Use Permit be amended, pursuant to Section 24.1-115(d)(2) of the York County Zoning Ordinance, to authorize a two-year extension of the deadline for establishing the special use;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 20th day of December, 2005, that Application No. UP 690-05, be, and it is hereby, approved to authorize a two-year extension of the February 7, 2006, deadline for establishing the senior housing independent living facility.

BE IT FURTHER RESOLVED that failure to establish the senior housing independent living facility in accordance with the provisions set forth in Section 24.1-115(c)(1) of the Zoning Ordinance on or before February 7, 2008, shall cause the special use permit to terminate automatically.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Bowman, Shepperd, Burgett
 Nay: (0)

CLOSED MEETING. At 9:54 p.m. Mr. Zaremba moved that the meeting be convened in Closed Meeting pursuant to Section 2.2-3711(a)(1) of the Code of Virginia pertaining to appointments to Boards and Commissions.

On roll call the vote was:

December 20, 2005

Yea: (5) Noll, Bowman, Shepperd, Zaremba, Burgett
Nay: (0)

Meeting Reconvened. At 10:22 p.m. the meeting was reconvened in open session by order of the Chair.

Mrs. Noll moved the adoption of proposed Resolution SR-1 that reads:

A RESOLUTION TO CERTIFY COMPLIANCE WITH THE FREE-
DOM OF INFORMATION ACT REGARDING MEETING IN CLOSED
MEETING

WHEREAS, the York County Board of Supervisors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711.1 of the Code of Virginia requires a certification by the York County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 20th day of December, 2005, hereby certifies that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the York County Board of Supervisors.

On roll call the vote was:

Yea: (5) Bowman, Shepperd, Zaremba, Noll, Burgett
Nay: (0)

APPOINTMENT TO THE YORK COUNTY EMPLOYEE GRIEVANCE PANEL

Chairman Burgett moved the adoption of proposed Resolution R05-206 that reads:

A RESOLUTION TO APPOINT AN ALTERNATE MEMBER TO THE
EMPLOYEE GRIEVANCE PANEL

WHEREAS, Kevin J. Collins's term as an alternate on the Employee Grievance Panel will expire on December 31, 2005; and

WHEREAS, Kevin J. Collins is eligible for reappointment and has expressed a desire to serve as a regular member or as an alternate on the Employee Grievance Panel; and

WHEREAS, the Board has reviewed and considered Mr. Collin's application as well as the applications of other citizens interested in serving in this capacity;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 20th day of December, 2005, that Kevin J. Collins be appointed as an alternate member to the Employee Grievance Panel for a term of three years, such term to begin January 1, 2006, and expire December 31, 2008.

On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Bowman, Burgett
Nay: (0)

REAPPOINTMENTS TO THE SOCIAL SERVICES BOARD

Mrs. Noll moved the adoption of proposed Resolution R05-210 that reads:

A RESOLUTION TO REAPPOINT TWO REPRESENTATIVES TO
THE YORK-POQUOSON SOCIAL SERVICES BOARD

BE IT RESOLVED by the York County Board of Supervisors this 20th day of December, 2005, that Elizabeth S. Tai and Mary Lou Wassel be, and they are hereby, reappointed as a representatives to the York-Poquoson Social Services Board for a term of four years, such term to begin January 1, 2006, and end December 31, 2009.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Bowman, Shepperd, Burgett
Nay: (0)

APPOINTMENTS TO THE YORK COUNTY PARKS AND RECREATION ADVISORY BOARD

Mr. Bowman moved the adoption of proposed Resolution R05-208 that reads:

A RESOLUTION TO REAPPOINT TWO REPRESENTATIVES TO
THE PARKS AND RECREATION ADVISORY BOARD

BE IT RESOLVED by the York County Board of Supervisors this 20th day of December, 2005, that John B. Christie and Donna J. Simkins be, and they are hereby, reappointed as representatives to the Parks and Recreation Advisory Board for a term of four years, such term to begin January 1, 2006, and end December 31, 2009.

On roll call the vote was:

Yea: (5) Noll, Bowman, Shepperd, Zaremba, Burgett
Nay: (0)

Meeting Adjourned. At 10:28 p.m. Chairman Burgett declared the meeting adjourned sine die.

James O. McReynolds, Clerk
York County Board of Supervisors

James S. Burgett, Chairman
York County Board of Supervisors

NOTE: In accordance with Section 15.2-1241 of the Code of Virginia, the minutes of this meeting were read at the February 21, 2006, Regular Meeting of the Board of Supervisors, and Chairman Zaremba was directed to sign such.